

**Security Council**

Distr.: General
4 March 2004
English
Original: French

**Letter dated 4 March 2004 from the Secretary-General addressed
to the President of the Security Council**

I have the honour to transmit to you herewith the text of a report dated 1 March 2004 which I have received from the Secretary General of the North Atlantic Treaty Organization (see annex).

I should be grateful if you would bring the report to the attention of the members of the Security Council.

(Signed) Kofi A. Annan



Annex

**Letter dated 1 March 2004 from the Secretary General of
the North Atlantic Treaty Organization addressed to the
Secretary-General**

In accordance with Security Council resolution 1088 (1996), I attach the monthly report on the operations of the Stabilization Force (SFOR) for January 2004. I would appreciate your making this report available to the Security Council.

(Signed) Jaap de Hoop **Scheffer**

Enclosure**Monthly report to the United Nations on the operations of the Stabilization Force**

1. Over the reporting period (1-31 January 2004) there were just over 11,280 troops deployed in Bosnia and Herzegovina and Croatia.

Security

2. The overall situation in Bosnia and Herzegovina remained stable during the period under review.

Attacks against SFOR and SFOR operational activities

3. There were no significant acts of violence directed against SFOR personnel over the reporting period.

4. SFOR continued to contribute to the maintenance of a safe and secure environment in Bosnia and Herzegovina and to monitor possible terrorist-related threats throughout the country. SFOR remained engaged with weapons collection, destruction and framework operations.

5. The results of weapons turned in or collected from 1 to 31 January 2004 within the framework of Operation Harvest are: 1,234 small arms (rifles, pistols and revolvers etc); 961,713 rounds of ammunition less than 20 mm; 11,818 rounds of ammunition between 20 mm and 76mm; 109 rounds of ammunition more than 76 mm; 7,356 hand grenades; 1,063 mines; 159,95 kilograms of explosives; 8,973 other items (mortars and mortar rounds, rifle grenades, handmade ordnance, attack rockets etc). With regard to the weapons destruction operations, as at 31 January 348 tons of ammunition have been transported and 446 tons destroyed.

6. SFOR is determined to continue its operations in weapons collection. In the near future, however, the local police will be increasingly encouraged by SFOR to participate in and even to lead joint operations.

7. On 1 January 2004, the new SFOR operation plan, "Dedicated focus", came into effect. The plan is aimed at facilitating a smooth transition to deterrent presence over the next six months.

8. On 10 January, on the basis of intelligence, SFOR headquarters launched a cordon-and-search operation to detain Radovan Karadzic. Republika Srpska Interior Ministry Police (MUP) assisted with the operation. For three days, SFOR personnel carried out searches of a number of locations linked to Karadzic. While Karadzic was not apprehended, a large number of personal and business documents, computers, mobile telephones and recent photographs were seized for further exploitation. Dusan Tesic, a former member of Karadzic's bodyguard, was detained in the operation. He was released by SFOR on 13 February.

9. On 23 January, SFOR assisted the Federation MUP as they detained Ante Jelavic, a former member of the Bosnian Presidency, on suspicion of embezzling bank deposits. Along with Jelavic, the former Federation Defence Minister, Miroslav Prce, and a local business owner, Miroslav Rupcic, were detained in connection with criminal acts related to the establishment and workings of the Herzegovacka Banka and companies linked to it.

10. On 28 January, SFOR detained Zeljko Jankovic, a Bosnian Serb special police officer and former bodyguard to Radovan Karadzic, who is assessed to have information on Karadzic's support network and recent activities. Jankovic is reported to have been involved in collecting "contributions" from Bosnian Serb businessmen in support of Karadzic and is also suspected of being involved in SRJ, an unofficial Serbian intelligence-gathering organization which is clandestinely embedded in the Ministry of the Interior of the Republika Srpska.

Cooperation and compliance by the parties

11. The armed forces of Bosnia and Herzegovina are generally compliant with the relevant provisions of the General Framework Agreement for Peace. A change relating to the procedures for airspace control in the SFOR Commander's instructions to the parties was published. This new version is necessary to facilitate the restructuring process of the armed forces of Bosnia and Herzegovina and to continue fulfilment of the obligations of the parties under the Peace Agreement.

12. During the reporting period, the Entity Armed Forces have carried out normal training activities, in compliance with the military provisions of the Dayton Peace Agreement. In January 2004, there were no reports of missing weapons from weapons storage sites.

13. There were a total of 31 Entity Armed Forces training and operation activities (18 VRS and 13 VF) during the reporting period and 145 movements (85 VRS and 60 VF) conducted during the reporting period. Entity Armed Forces mine-clearing resumed in January 2004; a total of 41,202 m² was cleared during the reporting period, a 20 per cent increase upon the same period in 2003. Only one anti-personnel mine was found. Throughout this period, all entities can be considered to have been compliant.

14. SFOR conducted a total of 35 weapons storage site and ammunition storage sites inspections during the reporting period (12 VRS and 23 VF). Four sites were closed this month and another 11 are pending closure.

Outlook

15. In January, SFOR continued to maintain a safe and secure environment, and started to transform its status to deterrent presence level in Bosnia and Herzegovina. SFOR operations focused on detention of persons indicted for war crimes and weapons collection. Although Radovan Karadzic was not detained, substantial evidence and information that will support future operations was collected. In both weapons collection and detention operations, local police forces cooperated closely with SFOR forces.

**Security Council**

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**Letter dated 4 March 2004 from the Secretary-General addressed
to the President of the Security Council**

Pursuant to Security Council resolution 1244 (1999), I have the honour to transmit herewith the report on the international security presence in Kosovo from the period from 1 to 31 January 2004 (see annex).

I should be grateful if you would bring this report to the attention of the members of the Council.

(Signed) Kofi A. Annan



Annex

[Original: English]

Monthly report to the United Nations on the operations of the Kosovo Force

1. Over the reporting period (1-31 January 2004) there were 19,083 Kosovo Force (KFOR) troops in theatre.

Security

2. Tensions among the population of Kosovo decreased slightly during the reporting period. The number of violent intra- and inter-ethnic events was smaller than in January 2003 and reached the lowest level since January 2003. Nevertheless, ethnic tensions remained high in Kosovo; 15 attempted murders and 3 murders were reported in January 2004. These incidents confirm the fragility of the security situation in Kosovo.

3. On 30 January, KFOR accepted the surrender of Avdil Jakupi, known as "Commander Cakala", and an associate in Urosevac. Both men were later handed over to UNMIK police. Avdil Jakupi was wanted in the former Yugoslav Republic of Macedonia¹ for armed robbery, extremist activity and the kidnapping of two former Yugoslav Republic of Macedonia police officers on 27 August 2003.

4. On 7 January 2004, a bus with Russian and Serbian visitors from the non-governmental St. Andrew Foundation heading for the Orthodox Christmas liturgy at the Decani monastery² was met by an angry crowd of Kosovo Albanians, who threw stones and snowballs against the bus, breaking a window. On the evening of 10 January, a crowd of approximately 250 Kosovo Serbs gathered in the village of Novo Naselje and blocked the road. A KFOR patrol observed a group of approximately 30 Kosovo Albanians, with sticks and axes, moving against the crowd. A Quick-Reaction Force platoon and a dog squad were deployed to the scene and the situation calmed down. For the next two days, crowds of Kosovo Serbs gathered in the streets to protest against the recent events. On 14 January, after negotiations with officials from the Lipjan municipality and villagers of Novo Naselje, UNMIK police provided a written document outlining their procedures to increase security in the area. These incidents demonstrate that freedom of movement for minorities remains a significant issue within Kosovo.

Attacks against KFOR and KFOR operational activities

5. There were three reported acts of aggressive behaviour against KFOR personnel during the month of January. The KFOR soldiers were not harmed, however, nor were they in serious danger.

6. KFOR continued to be vigilant so as to prevent possible extremist/terrorist threats directed against international organizations and military bases.

¹ Turkey recognizes the Republic of Macedonia with its constitutional name.

² Decani suffered greatly in the conflict in 1998-1999, and the population is still hostile to the 40 Kosovo Serbs residing in the monastery.

Cooperation and compliance by the parties

7. The armed forces of Serbia and Montenegro and the Ministry of Internal Affairs Special Police continued to remain in compliance with the terms and conditions of the Military Technical Agreement.

Kosovo Protection Corps

8. The current membership of the Kosovo Protection Corps (KPC) is 2,908 active members, including 126 from minorities, of which 23 are Serbs. The actual KPC personnel establishment list was updated by UNMIK in November 2003 and the KPC reserve members list has been transmitted to KFOR.

9. During January, there were 29 roll calls at KPC units. The results continue to show a low rate of absenteeism without permission: of the 1,206 persons involved in the musters, 9 were absent without permission (this represents 0.75 per cent). The results also show that the number of individuals on leave, sick or otherwise absent has grown to some 30 per cent of the active force).

Outlook

10. While stable overall, the situation in Kosovo remains fragile, internal politics and inter-ethnic relations remain the principal factors which can undermine the security situation in Kosovo. KFOR continues to maintain a safe and secure environment.



Security Council

Distr.: General
5 March 2004

Original: English

Letter dated 24 February 2004 from the Permanent Representative of Ireland to the United Nations addressed to the Secretary-General

I have the honour to draw your attention to the statement on the process of verification and validation of signatures in Venezuela, issued on 23 February 2004 by the Presidency on behalf of the European Union (see annex).

I should be grateful if the text of the present letter and its annex could be circulated as a document of the Security Council.

(Signed) Richard Ryan
Permanent Representative of Ireland to the United Nations



Annex to the letter dated 24 February 2004 from the Permanent Representative of Ireland to the United Nations addressed to the Secretary-General

[Original: English, French and Spanish]

Statement on the process of verification and validation of signatures in Venezuela issued on 23 February 2004 by the Presidency on behalf of the European Union

The European Union reaffirms its commitment to the democratic development of Venezuela and reiterates the importance of fully implementing the political agreement signed on 29 May 2003 by the Government and the opposition Coordinadora Democrática, in line with resolution 833 of the Organization of American States (OAS), which calls for a constitutional, democratic, peaceful and electoral solution to the crisis in Venezuela.

The European Union underlines the importance of prompt and effective compliance by the National Electoral Council (Consejo Nacional Electoral — CNE) with its institutional duties. In this respect, the European Union is concerned at the delay in the process of verification and validation of signatures to determine the possibility of recall referenda. It welcomes the announcement by CNE of its intention to conclude the process at the latest by 28 February, and calls on CNE to expedite the definitive decision on the holding of the referenda.

In view of the role of OAS in Venezuela and the cooperation it has established with CNE in the verification process, the European Union fully supports the recommendations contained in the joint statement by OAS and the Carter Center of 13 February 2004. It agrees, in particular, with the criteria of international observation, namely, the principle of transparency in control mechanisms against possible fraud, as well as the inalienable right of citizen participation that must be guaranteed by the electoral authority. The European Union believes that the will of the signatories must be respected. Although the European Union recognizes that there may have been some instances of fraud, CNE should apply technical regulations in a way which respects the rights of citizens who have signed petitions in good faith.

The European Union calls on all parties to continue to implement the agreement of 29 May 2003 in a climate of mutual respect, tolerance and restraint, and to fully abide by the Declaration against Violence and for Peace and Democracy of 18 February 2003, within the framework of the rule of law and democratic principles.

The acceding countries Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia, the candidate countries Bulgaria, Romania and Turkey, the countries of the stabilization and association process and potential candidates Albania, Bosnia and Herzegovina, Croatia, Serbia and Montenegro and the former Yugoslav Republic of Macedonia, and the EFTA countries Iceland, Liechtenstein and Norway, members of the European Economic Area, align themselves with this statement.



Security Council

Distr.: General
5 March 2004

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**Letter dated 26 February 2004 from the Permanent
Representative of Ireland to the United Nations addressed
to the Secretary-General**

I have the honour to draw your attention to the statement on the situation in Darfur, Sudan, issued on 25 February 2004 by the Presidency on behalf of the European Union (see annex).

I should be grateful if the text of the present letter and its annex could be circulated as a document of the Security Council.

(Signed) Richard Ryan
Permanent Representative of Ireland to the United Nations



Annex to the letter dated 26 February 2004 from the Permanent Representative of Ireland to the United Nations addressed to the Secretary-General

[Original: English, French and Spanish]

Statement on the situation in Darfur, Sudan, issued on 25 February 2004 by the Presidency on behalf of the European Union

The European Union wishes to express its serious concern at the situation in the Darfur region of western Sudan. The scale of the humanitarian crisis continues to escalate, with internally displaced persons estimated to be in excess of 700,000 requiring urgent humanitarian assistance. The European Union calls on the Government of the Sudan to grant United Nations agencies and other relief organizations continued and full access to all areas of Darfur, as the plight of the local populations requires urgent attention. The European Union recalls its concern expressed in the joint communiqué resulting from the EU-Sudan political dialogue held in Khartoum on 18 December 2003 and its appeal to "all the parties to ensure protection of the civilian population and to allow for unhindered humanitarian access for the population in need".

The European Union is alarmed at reports that Janjaweed militias continue to systematically target villages and centres for internally displaced persons in their attacks. The European Union strongly condemns the attacks and calls upon the Government of the Sudan to put an end to Janjaweed atrocities. The European Union also calls on the Government of the Sudan to thoroughly investigate the attacks carried out and ensure that the perpetrators are brought to justice. The European Union calls on the rebel groups operating in the Darfur region to commit themselves to providing safe passage to relief agencies and refrain from any activity that harms the delivery of relief. The European Union also urges all parties to the conflict to agree to an immediate ceasefire and to restore stability to the region through facilitated peace talks.

**General Assembly
Security Council**Distr.: General
8 March 2004

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**General Assembly
Tenth emergency special session**

Agenda item 5

**Illegal Israeli actions in Occupied East Jerusalem and
the rest of the Occupied Palestinian Territory****Security Council
Fifty-ninth year****Identical letters dated 8 March 2004 from the Permanent
Observer of Palestine to the United Nations addressed to the
Secretary-General and the President of the Security Council**

The Palestinian civilian population in the Occupied Palestinian Territory continues to be the target of brutal and deadly military attacks perpetrated by the Israeli occupying forces. In recent weeks, these attacks, which have included extrajudicial killings, have further intensified, resulting in mounting Palestinian casualties and further destruction and devastation. Since the beginning of the year in January and up until today, the Israeli occupying forces have killed at least 104 Palestinian civilians, including women and children, and have wounded hundreds of people. This figure includes the 14 Palestinians who were killed by the Israeli occupying forces yesterday, Sunday, 7 March 2004, in the Gaza Strip.

In the early morning hours of Sunday, the occupying forces raided the Bureij and Nusseirat refugee camps in the Gaza Strip. Dozens of armoured personnel carriers and tanks, provided with cover by helicopter gunships overhead, raided the camps in what the occupying Power has referred to as "pinpoint operations" intended to target "militants". The Israeli attack even included the use of snipers, who were positioned on rooftops of buildings that were overtaken by the occupying forces in the densely populated camps. Before noon, the Israeli occupying forces had killed at least 14 Palestinians, including four children ranging in age from 8 to 18 years old, and injured more than 80 other civilians, more than half of them children and several of them critically. During the raids, the occupying forces also destroyed one home, caused damage to several other houses and roads and used bulldozers to uproot orchards and fields in the vicinity of the refugee camps.

Today, the Israeli occupying forces continued their attacks on civilians when they shot and killed a Palestinian boy, Khaled Mousa Hadeeb, age 15, while he was working in a field belong to his family near an Israeli settlement in the Gaza Strip. Moreover, the occupying forces continued to use excessive force against Palestinian civilians and others protesting against the Wall being constructed by the occupying Power in the Occupied Palestinian Territory. At a demonstration today in the West



Bank village of Beit Lakiya, which included hundreds of Israelis, Palestinians and foreign activists, two people were injured when the occupying forces fired rubber-coated bullets at the protesters.

Such ongoing Israeli policies and practices, including the continued perpetration of extrajudicial killings against Palestinian civilians and the continued construction of the Wall in the Occupied Palestinian Territory, including in and around East Jerusalem, constitute serious violations and grave breaches of international law, including the Fourth Geneva Convention. War crimes are being committed against the Palestinian people under Israel's military occupation. Palestinian men, women and children are being constantly and relentlessly terrorized, punished, harassed and humiliated by the occupying Power as it continues to violate their human rights and to colonize their land. This is the dark reality of daily life in the Occupied Palestinian Territory, including East Jerusalem. The current escalation of illegal Israeli actions against the Palestinian people is compounding the suffering and hardships of the civilian population and exacerbating the prevailing humanitarian crisis.

The international community, including the Security Council, cannot continue to turn a blind eye to such ongoing and intensifying Israeli transgressions and violations of international law. Israel, the occupying Power, cannot be allowed to continue to act with impunity; it must be held accountable for its actions. Israel cannot be permitted to continue incurring death and destruction among the Palestinian people and to continue to undermine any efforts for a resumption of dialogue and negotiations for a peaceful settlement, while choosing instead to pursue its illegal agenda in the Occupied Palestinian Territory, including the imposition of an unjust and illegitimate unilateral settlement on the Palestinian people.

This letter is in follow-up to our previous 182 letters to you regarding the ongoing crisis in the Occupied Palestinian Territory, including East Jerusalem, since 28 September 2000. These letters, dated from 29 September 2000 (A/55/432-S/2000/921) to 3 March 2004 (A/ES-10/258-S/2004/173), constitute a basic record of the crimes committed by the Israeli occupying forces against the Palestinian people since September 2000. For all of these war crimes, State terrorism and systematic human rights violations committed against the Palestinian people, Israel, the occupying Power, must be held accountable and the perpetrators must be brought to justice.

Accordingly, in follow-up to the above-mentioned letters, it is my profound regret to inform you that, since my last letter to you just five days ago, at least 23 Palestinians, including children, have been killed by the Israeli occupying forces, raising the total number of martyrs killed since September 2003 to 2,812 Palestinians. (The names of martyrs that have been identified are contained in the annex to the present letter.)

I would be grateful if you would arrange to have the text of the present letter and its annex distributed as a document of the tenth emergency special session of the General Assembly, under agenda item 5, and of the Security Council.

(Signed) Dr. Nasser Al-Kidwa
Ambassador
Permanent Observer of Palestine to the United Nations

**Identical letters dated 8 March 2004 from the Permanent
Observer of Palestine to the United Nations addressed to the
Secretary-General and the President of the Security Council**

**Names of martyrs killed by the Israeli occupying forces in the
Occupied Palestinian Territory, including East Jerusalem*
(Thursday, 4 March 2004 to Monday, 8 March 2004)**

Thursday, 4 March 2004

1. Awni Nayef Kalab
2. Mohammed Al-Abed Othman (14 years old)

Friday, 5 March 2004

1. Mu'taz Nafez Al-Shirafi (10 years old, sustained wounds from 28 February 2004)

Saturday, 6 March 2004

1. Tha'er Khaled Abu Sereyeh
2. Hossam Khaled Mohammed Eleweh
3. Besheer Moussa Moussa Abu Al-Amrein
4. Hatem Mahmoud Tafesh (18 years old)
5. Mikdad Mohammed Al-Mibayad

Sunday, 7 March 2004

1. Mahmoud Abdallah Younes (8 years old)
2. Mohammed Ali Badawi (15 years old)
3. Mohamemd Amer Ayman Abu Azreeq (12 years old)
4. Amr Mohammed Al-Jamal (18 years old)
5. Shady Ahmed Al-Sa'edni
6. Fares Fathi Al-Hawajri
7. Mohamed Ismail Al-Shatly
8. Ahmed Harb
9. Mousa Manar Hamou
10. Yussef Mohammed Al-Sinwar
11. Khaled Kassem Al-Hazki
12. Hasan Ahmed Zuhd
13. Haytham Mohammed Al-Esawy
14. Hazem Rawhi Aql

Monday, 8 March 2004

1. Khaled Mousa Hadeeb (15 years old)

* The total number of Palestinian martyrs killed by Israeli occupying forces since 28 September 2000 is 2,812.

**Security Council**

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10 March 2004

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Letter dated 3 March 2004 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 18 July 2003 (S/2003/748). The Counter-Terrorism Committee has received the attached third report from the State of Qatar submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(Signed) **Inocencio F. Arias**
Chairman

Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism



Annex

**Letter dated 3 March 2004 from the Permanent Representative
of Qatar to the United Nations addressed to the Chairman of
the Counter-Terrorism Committee**

In reference to your letter dated 11 July 2003, I have the honour to enclose herewith the third report of the Government of the State of Qatar, pursuant to paragraph 6 of Security Council resolution 1373 (2001) (see enclosure).

(Signed) Nassir Abdulaziz Al-Nasser
Ambassador
Permanent Representative

Enclosure

[Original: Arabic]

Second supplementary report submitted by the State of Qatar to the Counter-Terrorism Committee pursuant to paragraph 6 of Security Council resolution 1373 (2001)

In response to the letter of the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism, dated 11 July 2003, which contains the Committee's questions regarding Qatar's first supplementary report, submitted in compliance with the request dated 24 June 2002 of the previous Chairman of the Committee (S/AC.40/2002/MS/OC.110), the Government of Qatar provides hereinafter answers to those questions.

1.2 Could Qatar please indicate the steps, if any, which Qatar may already have taken towards accession to and/or implementation of the seven relevant international conventions and protocols relating to terrorism to which Qatar is not as yet a party. In this regard, the CTC would welcome information on the conclusions of the Joint Ministerial Committee. Please indicate the time-frame envisaged for Qatar's accession to these instruments.

Concerning the seven international conventions and protocols relating to the fight against terrorism mentioned the first supplementary report as not yet acceded to by Qatar, the following steps have been taken:

1. International Convention against the Taking of Hostages, adopted by the United Nations General Assembly on 17 December 1979: Qatar acceded to this convention by an instrument of accession issued on 30 July 2003;
2. Convention on the Physical Protection of Nuclear Materials, adopted at Vienna and New York in 1980: Qatar acceded to this convention by an instrument of accession issued on 30 July 2003;
3. Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, signed at Montreal on 24 February 1988: Qatar acceded to this protocol by an instrument of accession issued on 19 May 2003;
4. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, concluded at Rome on 10 March 1988: Qatar acceded to this convention by an instrument of accession issued on 30 July 2003;
5. Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, Rome, 10 March 1988: Qatar acceded to this protocol by an instrument of accession issued on 30 July 2003;
6. International Convention for the Suppression of Terrorist Bombings, adopted at New York on 15 December 1997: the Council of Ministers has decided to refer this convention to the competent authorities in Qatar to study its provisions with a view to Qatar's accession;

7. International Convention for the Suppression of the Financing of Terrorism, adopted at New York on 9 December 1999: the Council of Ministers has decided to refer this convention to the competent authorities in Qatar to study its provisions with a view to Qatar's accession.

1.3 Qatar indicates in its supplementary report (at page 13) that it will need new legislation to give effect to the provisions contained in the relevant international conventions and protocols relating to terrorism. Could Qatar please provide an outline of any draft provisions which are intended to be enacted in its domestic law or to amend existing legislation in order to ensure the implementation of these international instruments?

We wish to draw the Committee's attention to the laws and draft laws enumerated below, which are currently being prepared.

1. Law on counter-terrorism

Law No. 3 of 2004, on counter-terrorism, was promulgated on 16 February 2004. The law was designed to provide comprehensive legislation against terrorism. The text includes numerous harsher provisions relating to terrorist offences. According to that law, offences are considered terrorist offences if their perpetration has a terrorist intent. The penalties provided are more severe in the case of crimes considered under the law to be terrorist offences. In addition, the office of the public prosecutor is granted the power to order the provisional detention of persons suspected of having committed such offences, unlike the case of other offences provided for in the draft Code of Criminal Procedure, in respect of which such power does not exist.

2. Draft Code of Criminal Procedure

Book V of this draft contains provisions relating to international legal cooperation. Chapters I to V relate to the extradition of convicted persons, suspects, letters rogatory and the transfer to a foreign country of convicted persons held in detention (articles 389 to 435).

3. Draft law on the public agency for charitable works

This draft includes the establishment of a public agency for the supervision and monitoring of the activities of private associations and institutions and operations involving the transfer of funds from such associations and institutions to any person, association, institution, body or society outside the State; the dissolution of such associations and institutions; the granting or denial of licenses in response to requests for membership in any association, institution, body or society headquartered outside the State; investigation of requests to open a bank account for any private association or institution outside the State; and the elimination of sources of financing of terrorist groups.

A further aim of the draft is to establish appropriate controls to ensure that licensed associations and institutions adhere to the lawful purposes and objectives for which they were created.

1.4 There are several references in Qatar's supplementary report to the replacement of Qatar's existing Penal Code by a new Penal Code, based on a draft which is currently under consideration. The CTC would welcome receiving a progress report concerning the relevant legislative process. Has the

new legislation already come into force? If the answer to that question is in the affirmative, please describe the relevant provisions relating to the extradition of offenders. If the answer is in the negative, please indicate the date on which it is anticipated that the new Penal Code will come into force.

The draft Penal Code referred to is in the final stages of legislation, inasmuch as it has been approved by the Council of Ministers and the Advisory Council and is expected to be promulgated shortly.

1.5 Could Qatar provide the CTC with further elaboration on the provisions of article 84 of its current Penal Code? Could Qatar also elaborate on the definition of 'illegal organization' referred to in article 85 of its present Penal Code?

An exhaustive definition of "illegal organization" (unlawful association) is given in article 83 of Qatar's present Penal Code, promulgated by Law No. 14 of 1971, which provides that an unlawful association, within the meaning of the chapter in question, is any group of people, body or association, whether registered or not, whose aims include any of the following:

- (i) The overthrow of the country's existing regime or that of any friendly country by force or by unlawful means;
- (ii) The spreading of principles aimed at destroying the country's existing social systems;
- (iii) Sabotage and the destruction within the country of public property or property belonging to any group of its inhabitants;
- (iv) The spreading of a spirit of hatred among groups of inhabitants;
- (v) The disruption of security and order in any part of the country.

1.6 Please indicate to the Committee whether the laws of Qatar apply the principle *aut dedere aut judicare* in relation to the offences referred to in subparagraph 2 (c) of the resolution?

The laws of Qatar do not at present contain any provisions governing the principle *aut dedere aut judicare*; however, as mentioned above, a draft Code of Criminal Procedure containing a chapter relating to the principle of either extraditing or trying offenders, depending on the circumstances, is currently being prepared and should be promulgated in the near future.

1.7 Is there a special law in force in Qatar concerning mutual assistance in criminal matters? Are the principles of reciprocity and/or comity applied in that regard?

Bilateral agreements on judicial cooperation concluded by Qatar with other States contain provisions governing mutual assistance in criminal matters on the basis of reciprocity. They cover letters rogatory, judicial notices and service, the examination of witnesses, the hearing of experts, the provision of financial assistance to defray the costs of judicial proceedings, the exchange of criminal records; and other procedures. Under the country's Constitution, such agreements have the force of law once the decrees relating to them have been issued.

Book V of the draft Code of Criminal Procedure is devoted to international judicial cooperation. In Chapter I it deals with the provisions relating to the

extradition of convicted persons and suspects and the handing over of objects. This book comprises provisions relating to the conditions for extradition, the cases in which extradition is not permitted, the modalities of the submission of requests for extradition, the data to be included in the extradition request, the authority competent to decide on requests for extradition and the case in which a request for extradition is submitted by more than one State. The Code contains provisions relating to the right of persons against whom a decision to extradite has been rendered to appeal to the competent court against the extradition decision, as well as provisions governing letters rogatory, cases in which the request is denied, procedures for the sending of letters rogatory and the binding nature of letters rogatory with respect to the judicial authorities of Qatar. Further provisions govern the transfer to Qatar of convicted persons or prisoners in cases in which the offence was committed abroad, and the execution of the penalty in Qatar.

Thus, no Qatar legislation currently exists on mutual assistance in criminal matters, such matters being governed at present by bilateral agreements on judicial cooperation based on the principle of reciprocity.

1.8 In its supplementary report, Qatar indicated that it has new machine-readable passports which incorporate a number of features and technical specifications intended to protect and prevent the counterfeiting of the information contained in the passports. In that respect, do national identification documents, other than travel documents, in use in Qatar (e.g. birth certificates, marriage certificates, driver's licenses, military service cards, etc.) have a minimum of international security standards aimed at rendering impossible their duplication or falsification?

Birth, death and marriage certificates and other national documents have the minimum of international security standards necessary to protect them from falsification and duplication. Birth, death and marriage certificates, moreover, are not considered in themselves, but rather in connection with a personal identity card or judicial certificate that confirms them.

1.9 The CTC notes that Qatar has established a committee to coordinate the efforts of the competent authorities to implement resolution 1373 (see page 11 of Qatar's supplementary report). The CTC would be grateful to receive more detailed information concerning the outcome of the committee's work, including an account of any reports drawn up by the committee.

The coordinating committee for the implementation of resolution 1373 was established by a decision of the Council of Ministers dated 16 January 2002 for the purpose of coordinating the efforts of all authorities in Qatar concerned with the implementation of the obligations arising from Security Council resolution 1373 (2001) concerning counter-terrorism. On 2 July 2003 the Council of Ministers decided to broaden the committee's mandate to include coordination among all Qatar authorities concerned with a view to the implementation of all the United Nations resolutions relating to counter-terrorism and the preparation of the reports required by the Council in that regard.

Since its establishment, the committee has made it a point to observe and analyse all the recommendations and initiatives adopted by the Counter-Terrorism Committee, striving to implement those recommendations and preparing the related

national reports. The committee was able to prepare the first supplementary report as well as the present supplementary report.

1.10 The CTC notes that the enactment of legislation is required in order to implement international conventions in Qatar's domestic law (see page 13 of the supplementary report). The CTC would appreciate receiving an outline of the provisions relating to the implementation of the international instruments to which Qatar is already a party.

As pointed out in the first supplementary report, article 24 of the amended Provisional Constitution provides that treaties are concluded by His Highness the Emir, the Head of State, by decree and acquire the force of law upon being ratified and published in the official journal. This is the general rule.

By way of exception to this rule, owing to procedural and technical aspects inherent in such treaties the implementation of some of their provisions requires the passage of new domestic legislation and the amendment of existing legislation. This is what the State is doing at present.

Reference has been made in the previous report and earlier in this report to the adoption of legislation of this nature, such as the law on combating money-laundering, the law on civil aviation and the law on counter-terrorism. To supplement this effort, a draft Penal Code and Code of Criminal Procedure are currently being prepared and a public agency for charitable works is being set up.

Annexed to the present supplementary report are copies of the law on combating money-laundering, the law on civil aviation and the law on counter-terrorism.

1.11 The CTC notes that the question of extradition to and from Qatar is dealt with at present in bilateral agreements. Qatar's draft Code of Criminal Procedure addresses this matter (see page 13 of the supplementary report). Is this new legislation already in force? If the answer to this question is in the affirmative, please describe the relevant provisions concerning extradition. However, if the answer to this question is in the negative, please indicate the date at which it is anticipated that the said draft Code of Criminal Procedure will come into force.

The draft Code of Criminal Procedure referred to is in the final stages of legislation, inasmuch as it has been approved by the Council of Ministers and the Advisory Council and is expected to be promulgated shortly.

1.12 Could Qatar outline the principal reasons which influence it or guide it when reaching a decision to turn down a request for extradition. Where an offence is deemed to be political in nature, is that considered a sufficient reason for refusing a request for extradition under the domestic laws of Qatar? Could Qatar provide the CTC with the criteria applicable in its domestic law to determine what constitutes "a political offence"? Are any of the offences mentioned in subparagraph 2 (c) of the resolution deemed to constitute "political offences" under the domestic laws of Qatar? If not, the CTC would be grateful to receive copies of the relevant domestic provisions.

As already pointed out in the answer to question 1.7, the provisions relative to the acceptance or rejection of requests for extradition are stipulated in bilateral agreements on judicial cooperation. Current national legislation contains no

provisions regarding political grounds for denying extradition. The acts mentioned in subparagraph 2 (c) of Security Council resolution 1373 (2001) are considered terrorist offences punishable under domestic legislation in accordance with the commitments assumed by the State of Qatar under the international conventions to which it has become a party.

The same applies in respect of the application of the law on counter-terrorism, article 1 of which defines the crime of terrorism as follows:

For the purposes of the application hereof, felonies provided for in the Penal Code or in any other legislation are considered terrorist offences if they are committed for terrorist purposes.

The purpose is considered a terrorist purpose if the motive for the use of force, violence, threats or intimidation is to thwart the operation of the provisions of the amended Provisional Constitution or the law, to violate public order, to jeopardize the safety and security of society or to impair national unity and such use results in, or is likely to result in, injury to persons; the instilling of fear in them; the endangering of their lives, their freedoms or their security; harm to the environment, public health or the national economy; damage to or the seizure of public or private facilities, installations or property; interference with their operation; or the prevention or hampering of the public authorities in the exercise of their functions.

It is obvious from the provisions of the law on counter-terrorism and the draft Code of Criminal Procedure that crimes of providing safe haven to anyone who finances or arranges for the provision of funds to terrorist groups are not deemed offences of a political nature that might stand in the way of extradition.

1.13 The CTC notes that the documents, referred to at the end of the supplementary report as 'annexes' (at pages 14 and 15), were not received. When the CTC inquired about them to the Permanent Mission of Qatar to the United Nations, the latter re-designated the documents as 'sources' instead of 'annexes.' The CTC would therefore be grateful if Qatar could provide an organizational chart of its administrative machinery, such as police, immigration control, customs, taxation and financial supervisory authorities, established to give practical effect to the laws, regulations and other documents which are deemed relevant to Qatar's compliance with the terms of the resolution.

Annexed hereto are copies of:

1. The organizational structure of the Ministry of the Interior;
2. The organizational structure of Qatar Central Bank;
3. The organizational structure of the Customs and Ports General Authority.

1.14 As regards the concerns set out in paragraph 4 of the resolution, the CTC would welcome receiving copies of any relevant legislative measures (see page 13 of the supplementary report) taken by Qatar in response to those concerns.

Annexed hereto are copies of:

1. The Penal Code of Qatar of 1971 (chapter relating to the applicability of the Code and the articles pertaining to unlawful associations);

2. The law on arms, munitions and explosives;
 3. The law on combating money-laundering;
 4. The law regulating the entry into and residence in Qatar of foreigners;
 5. The law on the combating of narcotic drugs and dangerous psychotropic substances and the regulation of the use of and trade in such substances;
 6. The law on civil aviation;
 7. Law No. 3 of 2004, on counter-terrorism.
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**Security Council**

Distr.: General
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Progress report of the Secretary-General on Ethiopia and Eritrea**I. Introduction**

1. The present report is submitted pursuant to paragraph 12 of Security Council resolution 1320 (2000) of 15 September 2000, and provides an update on developments in the peace process since my report dated 19 December 2003 (S/2003/1186). The report also describes the deployment and activities of the United Nations Mission in Ethiopia and Eritrea (UNMEE), whose current mandate expires on 15 March 2004, and gives an account of the efforts of my Special Envoy for Ethiopia and Eritrea.

II. Special Envoy for Ethiopia and Eritrea

2. In my letter to the President of the Security Council (S/2004/102), I informed the Council of my decision to appoint Lloyd Axworthy, former Minister for Foreign Affairs of Canada, as my Special Envoy for Ethiopia and Eritrea to explore with the two Governments how best the current impasse in the implementation of the Algiers Agreement could be overcome. I emphasized that the offer of good offices was not intended to create a new or alternative mechanism. In my exchanges with the parties, I also emphasized that my initiative would focus on the implementation of the Algiers Agreement, the decision of the Eritrea-Ethiopia Boundary Commission, and the relevant resolutions and decisions of the Security Council, and help the parties to create a mutually advantageous situation, through dialogue and improved relations. The Security Council expressed full support for the mission of good offices (see S/2004/103).

3. In the second half of February, my Special Envoy carried out his initial mission to the region. In Addis Ababa, he consulted with the Ethiopian leadership and the Chairperson of the Commission of the African Union. He held further consultations in Sirte, Libyan Arab Jamahiriya, including consultations with the current Chairman of the African Union. My Special Envoy's intended visit to Asmara did not materialize because of the negative disposition of the Government of Eritrea towards his mission.



III. Status of the Temporary Security Zone and adjacent areas

4. During the period under review, the general situation in the Temporary Security Zone and the adjacent areas remained relatively stable, and there were no major incidents. UNMEE believes however that, in the absence of progress on the demarcation of the border, this stability must be considered as fragile. In order to maintain the integrity of the Temporary Security Zone, UNMEE carried out extensive and continuous patrolling in the Zone, monitored the redeployed positions of the parties' armed forces in the adjacent areas, and observed the activities of the Eritrean militia and police in and around the Zone. Regrettably, overall cooperation with the parties on the ground has shown signs of gradual deterioration over the last few months.

5. UNMEE continued to observe an increase in training activities, in particular by the Ethiopian Armed Forces, which have frequently been conducted in close proximity to the southern boundary of the Temporary Security Zone. UNMEE has requested the Ethiopian Ministry of Defence and the commanders of the Ethiopian divisions involved to move their training activities away from the Zone. Meanwhile, routine maintenance work on defence positions on both sides of the Zone continued.

6. The incursions by Ethiopian herdsmen and their livestock into the Temporary Security Zone in Sector Centre, mentioned in previous reports, decreased marginally, and incidents of armed Ethiopian militia accompanying them have all but ceased. Meanwhile, there was an increase in allegations by both parties of rustling of livestock in Sectors West and Centre. At the same time, several exchanges of livestock were successfully arranged with the assistance of UNMEE, both sides returning livestock that had either strayed or been stolen. On 19 January, an unarmed patrol of UNMEE military observers travelling at night was fired upon, after failing to stop at a temporary Ethiopian Armed Forces checkpoint in Sector West. Three rounds were fired, and a single bullet hit one of the vehicles, but no one was injured. The UNMEE investigation, which was carried out with the full cooperation of the Ethiopian Armed Forces, revealed that the patrol had failed to stop because it was night-time and it had not seen the temporary checkpoint, and that the soldier who had opened fire had been unable to identify the vehicles, which did not have illuminated flags. UNMEE lodged a formal protest about the shooting with the Ministry of Defence, which regretted its occurrence and promised that such incidents would not reoccur.

7. In a worrying incident, UNMEE Sector West headquarters in Barentu in Eritrea was targeted by a hand-delivered improvised explosive device on 20 January. Fortunately, it caused no casualties and only little damage. UNMEE was unable to determine the identity of the perpetrators, and is still awaiting the results of the Eritrean investigation. As a result of the incident, the Mission has requested the local Eritrean authorities to increase security in the vicinity of that facility.

8. During the period under review, a number of military personnel and civilians from both sides defected across the southern boundary of the Temporary Security Zone. While UNMEE is not mandated to halt such illegal crossings, all reported incidents were thoroughly investigated. On several occasions, the Mission facilitated the prompt repatriation of individuals who had accidentally crossed the boundary from either side and were detained by the respective authorities. UNMEE assets, in particular vehicles, are at risk of being commandeered or otherwise put to

unauthorized use for the purpose of crossing the southern boundary of the Zone. An UNMEE vehicle was reported missing in Asmara on 6 January and was found abandoned in Addis Ababa on 13 January. As a result of that incident, the two parties cited serious national security concerns, the Government of Ethiopia demanding a forensic examination of the vehicle and photographic identification of the person or persons who had made unauthorized use of the vehicle, as well as a joint investigation with the Mission. UNMEE discussed the matter extensively with the Ethiopian authorities, and agreed to have the vehicle inspected by the Government in the presence of UNMEE personnel, but was not in a position to provide photographic identification of the driver and the passengers. An investigation of the incident is under way.

Freedom of movement

9. On 2 February, Ethiopia severely restricted the Mission's freedom of movement, as it closed all major roads and tracks leading into Ethiopia, with the exception of the Mereb River crossing in Sector Centre. The restrictions, which were imposed as a result of the incident described in the previous paragraph, were mostly lifted after 48 hours, following UNMEE protests to the Government of Ethiopia. The Ethiopian authorities continued to impose restrictions at Humera Bridge in Sector West until 19 February, when they were removed.

10. On the Eritrean side, UNMEE faced continuing restrictions on its movements in the areas adjacent to, and on a number of occasions within, the Temporary Security Zone. UNMEE has repeatedly protested about these restrictions to the Eritrean authorities, which maintain that the Mission's monitoring mandate is limited solely to the Zone and does not include the redeployment positions of its armed forces outside the Zone. As a result, the Mission's ability to monitor the redeployment positions of the Eritrean Defence Forces in the adjacent areas, in accordance with the Agreement on Cessation of Hostilities, is severely constrained.

11. Regrettably, there has been no improvement with regard to the difficulties experienced by UNMEE staff at the airports in Addis Ababa and Asmara when entering and leaving Ethiopia and Eritrea. The Government of Eritrea continues, furthermore, to insist on receiving prior notification for non-Mission passengers travelling on UNMEE carriers on both domestic and cross-border flights, a requirement which unnecessarily hampers humanitarian and political efforts in support of the peace process, as it affects the United Nations country team, representatives of the diplomatic community, troop-contributing countries and other stakeholders. It should be emphasized that UNMEE transport of non-Mission passengers does not circumvent in any way compliance with the relevant immigration procedures.

12. Despite repeated requests and efforts, UNMEE aircraft are still required, three and a half years after the Mission's inception, to travel via Djibouti when flying between Addis Ababa and Asmara. While Ethiopia has indicated that it may now be willing to allow direct flights, it has not followed through with a decision or action to this effect. In the meantime, the failure of the parties to overcome their differences on this issue continues to necessitate longer, more complicated and less secure flights. The indirect flights have also resulted in additional costs totalling over US\$ 3.14 million since the Mission's establishment, as well as in countless wasted work hours for UNMEE personnel flying between the two capitals. I once

again appeal to the parties to allow for the resolution of this matter. The introduction of direct flights would be a significant improvement for UNMEE staff working for peace in the two countries, and could also contribute to much-needed confidence-building.

Military Coordination Commission

13. UNMEE continued to convene and chair the Military Coordination Commission, which held its 21st and 22nd meetings in Nairobi on 15 December 2003 and 2 February 2004, respectively. At those meetings it dealt in detail with the modalities for the conduct of sector-level military coordination commissions. At the latter meeting, the two parties endorsed a framework for sector military coordination commissions and set dates early in March for the first meetings in each sector, in time for them to report back to the Military Coordination Commission when it meets again on 15 March in Nairobi. The first meeting of the sector Military Coordination Commissions was held on the Mereb River Bridge in Sector Centre on 3 March, and the other two sectors are due to hold meetings later in the month. I very much welcome this development and hope that the establishment of the sector-level commissions will lead to enhanced cooperation between military commanders and help to build more trust between the parties and address security issues at the local level. Regrettably, there has been no progress with regard to holding future meetings of the Military Coordination Commission alternately in the capitals of Ethiopia and Eritrea.

Status of the Mission and related issues

14. As at 26 February 2004, the total strength of the UNMEE military component stood at 4,016, comprising 3,690 troops, 112 headquarters staff officers, and 214 military observers (see annex II).

15. I appeal once again to the Government of Eritrea to sign the status-of-forces agreement with the United Nations without further delay. The model status-of-forces agreement continues to be in effect in the interim. The Eritrean authorities continue to impose national service obligations on UNMEE local staff members, in contravention of the model status-of-forces agreement and the 1946 Convention on the Privileges and Immunities of the United Nations. My Special Representative, Legwaila Joseph Legwaila, continues to pursue and protest about the matter, including the detention by the Government of some local staff on the basis of national service obligations. It is to be recalled that Ethiopia signed the status-of-forces agreement with the United Nations in March 2001.

16. In accordance with the Secretary-General's bulletin on special measures for protection from sexual exploitation and sexual abuse (ST/SGB/2003/13), UNMEE identified a focal point to receive complaints on sexual exploitation and harassment. In addition, in an effort to promote gender awareness, UNMEE has incorporated a module on gender awareness into the ongoing training programmes for both its civilian and its military personnel. The awareness campaign to promote gender sensitivity within the Mission is ongoing.

17. Owing to the recently announced plans of the Government of Eritrea to upgrade a nearby airstrip, UNMEE has been requested to relocate its established military and other facilities in Barentu to a new site eight kilometres from the town. This relocation, which is expected to be done at considerable cost to the

Organization and which involves both administrative offices and military camps, commenced on 19 January and is expected to be completed by the end of March. On a separate issue, UNMEE and the Secretariat are currently reviewing the overall security of the Mission's facilities.

IV. Boundary Commission

18. It is a matter of deep concern that since my last report there has been no progress in the demarcation of the border. Nevertheless, the Boundary Commission has kept its field offices open with minimal staffing in anticipation of a quick resumption of its work. UNMEE continued to provide administrative and logistical support to those offices. A report of the Commission, prepared by its President, is contained in annex I to the present report.

19. Voluntary contributions and pledges to the Trust Fund for delimitation and demarcation of the border currently total some \$10.9 million. Owing to the delay in demarcation, it is now projected that an additional \$6 million will be required to complete the demarcation of the whole border, when the process resumes.

V. Mine action

20. Landmines and unexploded ordnance remain a major threat in the Temporary Security Zone and the adjacent areas. From December 2003 to mid-February 2004, there were six incidents involving landmines and unexploded ordnance, four in Sector West and two in Sector Centre. Three people were killed in those incidents and seven seriously injured. The Mission's preliminary investigations indicated that the incidents were not the result of newly laid mines; in fact, there have been no incidents involving newly laid mines since July 2003. Meanwhile, UNMEE demining assets continued their work throughout the Mission area, destroying 314 mines and 356 items of unexploded ordnance, and clearing more than 686,940 m² of land and 544 km of road.

VI. Humanitarian developments

21. The New Coalition for Livelihood and Food Security in Ethiopia, formed in mid-2003 and composed of the Government, United Nations agencies, donors and non-governmental organizations, has been seeking to address medium- to long-term food insecurity in an attempt to break the cycle of persistent emergency and need for humanitarian response. The key areas of the programme include the design of safety nets to protect lives and assist the most vulnerable; capacity-building and institutional arrangements; social mobilization mechanisms; and a monitoring and evaluation system. A transition from humanitarian programmes to initiatives of the New Coalition for the chronic food-insecure population (some 4 to 5 million people) will begin during 2004. In the meantime, the Government and its partners intend to work to ensure that the basic needs of the full caseload of those in need (estimated to be some 7.2 million) will be met during the year.

22. The Government of Eritrea and the United Nations country team have also made significant progress in several key areas in an effort to elevate the country

from its current humanitarian emergency. The efforts include the development of an integrated recovery programme based on medium- and long-term needs, which is awaiting the Government's approval; a food security strategy; an interim poverty reduction strategy paper; and a contingency plan for internally displaced persons and host communities expected to be affected by the demarcation of the border.

23. Since early January, all United Nations agencies, international organizations and embassies operating in Eritrea require travel permits for any travel outside of the four main routes, from Asmara to Massawa, Mendefera (Adi Ugri) and Keren, and from Dek'emhare/Nefasit to Massawa. Applications for the travel permits have to be submitted 10 days in advance. The United Nations country team remains concerned that this new regulation may hamper its ability to implement and monitor projects and to respond quickly. Discussions between the United Nations country team and the Government of Eritrea are ongoing.

24. In view of the ongoing humanitarian crisis in Eritrea and Ethiopia, I urge all donors to continue to respond generously to the recent appeals to address the emergency needs of the populations in both countries.

Quick-impact projects

25. UNMEE continued to implement quick-impact projects in the Temporary Security Zone and the adjacent areas of Ethiopia and Eritrea. A total of 88 projects have now been completed, and another 41 projects are in various stages of implementation. The quick-impact projects Committee has reviewed a number of additional projects, but funds contributed to the Trust Fund to Support the Peace Process in Ethiopia and Eritrea have almost been depleted. The Mission has found that quick-impact projects do make a considerable difference to the lives of Eritreans and Ethiopians residing in the border areas, and I urge donors to continue to support this important programme through additional contributions to the Trust Fund.

HIV/AIDS activities

26. UNMEE continued to promote HIV/AIDS awareness among the Mission's peacekeeping personnel. Training-of-trainers courses in HIV/AIDS peer leadership continued jointly with the armed forces of the host nations and other sections of the population, particularly religious groups, hotel staff, youth representatives, and commercial sex workers. During the reporting period, UNMEE trained 92 peer educators and also carried out campaigns promoting HIV/AIDS awareness among the host population.

VII. Human rights

27. Since my last report, UNMEE has undertaken a thorough review of its human rights mandate, assessing the possibility of including human rights promotion and technical cooperation. It is a cause of concern, however, that neither party has responded to requests from my Special Representative concerning the implementation of the Mission's human rights mandate. Despite two written requests, UNMEE has still not been allowed to visit a camp of Eritrean asylum-seekers near Shiraro, Ethiopia. Similarly, there has been no response to a letter dated 9 January 2004 addressed to the authorities requesting access to Eritrean detention

centres. That request was made in order to verify the application of minimum standards concerning the treatment of detainees, in accordance with international human rights conventions, which Eritrea ratified. The detainees include persons of Ethiopian origin arrested in Eritrea, and individuals arrested within the Temporary Security Zone after crossing the southern boundary of the Zone.

28. During the period under review, UNMEE conducted interviews with persons of Ethiopian origin repatriated by Eritrea on 19 December 2003 under the auspices of the International Committee of the Red Cross, who included many elderly persons and young children. The interviews gave UNMEE grounds for concern with respect to the treatment of those persons by the Eritrean security and immigration officials. Another area of concern was the denial of access to Eritrean asylum-seekers, particularly minors, on their arrival in Ethiopia, as a result of a reported change in policy on the part of the authorities. At the same time, in January 2004, the Government of Ethiopia issued a directive stating that Eritrean residents of Ethiopia could apply for citizenship; further clarification is being sought concerning that directive.

29. UNMEE continued to conduct human rights training for its peacekeepers. It is worth noting that human rights training could be extended to national partners, including law enforcement officials and judicial bodies, as well as to women's and other associations in both countries. Participation by those officials and members of such bodies in such training activities would however imply not only the support of the respective parties for the work of the UNMEE human rights office but also additional financial support.

VIII. Public information

30. The Mission continued to disseminate information about the peace process and the work of UNMEE by a number of different means. However, the closure in September 2003 of the UNMEE outreach centres in Eritrea has created a vacuum in the information flow from the Mission within Eritrea, which the Mission is trying to address through different means. Meanwhile, the two outreach centres on the Ethiopian side continue to be popular, and there has been a substantial increase in monthly visits. In an effort that particularly targets audiences in the border areas, UNMEE has prepared a pilot series on issues of interest to the border communities in both countries, including gender issues, conflict resolution and the values of cooperation and good-neighbourliness. In view of the success of the UNMEE 2003 art calendar, the Mission has produced a new calendar for 2004, featuring the 12 winning entries in a children's painting competition conducted in the two countries, the theme of which was peace. So far, some 12,000 copies of the calendar have been distributed to the Ethiopian and Eritrean public.

IX. Financial aspects

31. The General Assembly, by its resolution 57/328 of 18 June 2003, appropriated the amount of \$188.4 million (gross), equivalent to \$15.7 million per month, for the maintenance of UNMEE for the financial period from 1 July 2003 to 30 June 2004. The assessment of these amounts is subject to the decision of the Security Council to extend the mandate of the Mission. Should the Security Council decide to extend the

mandate of UNMEE beyond 15 March 2004, the cost of maintaining the Mission until 30 June 2004 would be limited to the monthly amounts approved by the General Assembly. As at 31 January 2004, unpaid assessed contributions to the special account for UNMEE amounted to \$81.6 million. The total outstanding assessed contributions for all peacekeeping operations as at that date amounted to \$2.2 billion.

X. Observations

32. There have been no major incidents on the ground since my last report, as the armed forces of both parties remain separated by the Temporary Security Zone and generally continue to respect their security commitments. According to the Mission's assessment, however, in the absence of political progress military stability is becoming fragile and should not be taken for granted. The current stalemate is a source of instability and therefore has the potential to become dangerous. Indeed, recent Eritrean statements have indicated that the present impasse could have serious consequences, with high human cost and far-reaching implications for regional peace and security. I would like, once again, to remind the parties of their commitment, set out in the Algiers Agreement, to permanently terminate military hostilities and refrain from the threat or use of force against each other.

33. It is clear that the main reason for the present stalemate in the peace process, which had otherwise progressed in an exemplary fashion, is the lack of progress in the demarcation of the border. The establishment of an internationally recognized border has long been considered essential to a lasting peace between Ethiopia and Eritrea, and the creation of the Boundary Commission was therefore a central element of the Algiers Agreement of December 2000. The importance of implementing the decision of the Boundary Commission was reinforced on numerous occasions by the Security Council, most recently in its President's statement to the press on 7 January 2004, and in subsequent statements by the United States as well as the witnesses of the Algiers Agreement. I therefore regret the rejection by Ethiopia contained in the letter to me from the Prime Minister, Meles Zenawi, dated 19 September 2003, of significant parts of the Boundary Commission's decision, which it had accepted as final and binding. In order to keep the peace process on track, it would be very helpful if Ethiopia would restate unequivocally its support for the Boundary Commission's decision and demonstrate its commitment to the demarcation process by allowing it to proceed. Concrete steps in this regard would include reconfirmation of its acceptance of the decision of the Boundary Commission as final and binding, payment of its dues to the Commission, appointment of field liaison officers, and allowing preparatory work to commence in Sectors West and Centre.

34. At the same time, I strongly believe that the simultaneous establishment of a channel of communication will help to facilitate the efforts to build trust, normalize relations and implement the Algiers Agreement. I was therefore saddened by Eritrea's decision not to receive my Special Envoy during his recent first visit to the region. The outcome of any dialogue will depend on the input of both parties, and neither should fear that an exchange of views, through my Special Envoy, will undermine their positions or earlier agreements. The appointment of the Special Envoy was indeed intended to provide an opportunity for both parties to present their positions and ideas on how to move the process forward. Moreover, as the

stability of the military situation is sometimes questioned, the need for communication has become even more important. I reiterate my strong appeal to the two parties, in particular to Eritrea, to give my Special Envoy the opportunity to meet and discuss with their leadership how best my good offices could help them to overcome the impasse in the implementation of the Algiers Agreement. Obviously, both he and I are open to any constructive interaction with both parties.

35. The continuing stalemate in the peace process also raises questions about the future of UNMEE, which was established to help to create conditions conducive to the peaceful settlement of the conflict through the delimitation and demarcation of the border. The peacekeeping operation was never meant to support a status quo indefinitely. The resources, troops and goodwill of the international community currently consumed by UNMEE could without any doubt be used elsewhere, not least in other parts of Africa where demand for urgent assistance is still great. In view of the ongoing efforts of my Special Envoy and the continuing distrust between the parties, it would be premature at present to suggest any major changes to the configuration of UNMEE. It is my belief that the benchmarks for any reduction of the peacekeeping operation should be based on an easing rather than a heightening of tension on the ground, and must be driven by change for the better in mutual trust and confidence. Possible benchmarks for this process would include an improvement in the security environment, well-functioning sector military coordination commissions which actively cooperate to resolve practical problems as they arise, and meaningful progress in demarcation. I will monitor the situation closely in this regard and will stand ready to make specific recommendations as the situation evolves. In particular, the Mission's effectiveness will be kept under close review to adjust and streamline operations as needed. In the meantime, I believe UNMEE should continue to carry out its essential mandate, which I recommend be extended for an additional period of six months, until 15 September 2004.

36. In view of the heightening tensions, it is more important than ever for UNMEE to be able to carry out its key role, namely, monitoring the Temporary Security Zone as well as the redeployed positions of the armed forces of the two sides, as specified in the Agreement on Cessation of Hostilities of June 2000 and as mandated by the Security Council in resolution 1320 (2000). It is therefore both urgent and critical that the two parties extend their complete cooperation with UNMEE and allow its personnel full freedom of movement in the Temporary Security Zone and the adjacent areas.

37. At the same time, I am heartened by the fact that, despite the lack of progress in recent months, the international community has remained actively engaged and supportive of this peace process. I believe that this persistence is in part the result of a wish to witness and contribute to the successful conclusion of a peace process which has come so far and in which so much has been invested. The continuing political, financial and other support of all international partners for the peace process will remain crucial. It is critical that the international community remain united and speak with one voice in support of the mission of my Special Envoy. However, no one can do more to bring about lasting peace in this region than the parties themselves. For the sake of their own peoples, and in recognition of the great contribution of the international community, I urge the leaders of Ethiopia and Eritrea to take concrete and decisive steps to move the process forward and to its early conclusion.

38. In conclusion, I wish to recognize the persistent and hard work of my Special Representative, Legwaila Joseph Legwaila, and the military and civilian personnel of UNMEE, as well as the efforts of the United Nations country teams and their humanitarian partners on the ground. I also wish to thank Lloyd Axworthy for accepting the challenging assignment as my Special Envoy and for his efforts thus far. Finally, the United Nations remains grateful to all its key partners, Member States, the African Union and other international organizations which continue to lend their invaluable support to the United Nations effort in bringing lasting peace between Ethiopia and Eritrea.

Annex I**Twelfth report on the work of the Eritrea-Ethiopia
Boundary Commission**

1. This is the twelfth report of the Eritrea-Ethiopia Boundary Commission, covering the period from 1 December 2003 to 26 February 2004.
2. As indicated in its eleventh report, the Commission has, regrettably, and for reasons beyond its control, been unable to progress with demarcation activities. The Commission is unaware of any developments during the period currently under review that would cause it to revise its conclusion that, until the positions of either or both of the parties are modified, there is nothing more that the Commission can do.
3. The Commission has noted the appointment by the Secretary-General of Lloyd Axworthy as his Special Envoy for Ethiopia and Eritrea, to explore with the two Governments "how best the current impasse in the implementation of the Algiers Agreement could be overcome". The Commission has also noted that the offer by the Secretary-General of his good offices is not intended to represent a new or alternative mechanism.
4. In keeping with its undertaking to continue — if the parties cooperate fully — in the manner foreseen in the Algiers Agreement, the Commission is maintaining its presence in the area, but has reduced its activity to the minimum compatible with its being able to resume it, if and when the parties make it possible for the Commission to do so. To this end, it is maintaining its field offices in both capitals with reduced staff.
5. It must nevertheless be recalled that, although contractors for pillar emplacement and as-built survey have been selected, their actual deployment in the field requires four months of preparation time.
6. The Special Consultant continued to provide monthly progress reports to the parties through the Secretary during this period. The meeting of the Boundary Commission with the parties in The Hague on 19 November was noted in the progress report of November 2003. According to the December 2003 and January 2004 progress reports, as the parties "have not made it possible for the Commission to resume its activity, no progress was made ... and there is nothing to report".
7. Under article 4, paragraph 17, of the Algiers Agreement, the parties are required to bear the expenses of the Commission in equal shares, and deposits are accordingly required from the parties at regular intervals. Eritrea has paid its latest deposit, while Ethiopia, despite repeated reminders, has not. Accordingly the Commission has been unable to make payment on certain accrued expenses, and has no funds in hand to finance any renewed activity.

(Signed) Sir Elihu Lauterpacht
President of the Commission
27 February 2004

Annex II

United Nations Mission in Ethiopia and Eritrea: contributions as at 27 February 2004

<i>Country</i>	<i>Military observers</i>	<i>Troops</i>	<i>Staff</i>	<i>Total</i>	<i>National support elements</i>
Algeria	8			8	
Australia			2	2	
Austria	2		1	3	
Bangladesh	7	168	4	179	
Benin			2	2	
Bosnia and Herzegovina	9			9	
Bulgaria	5		2	7	
China	6			6	
Croatia	7			7	
Czech Republic	2			2	
Denmark	4			4	
Finland	7	185	12	204	
France			1	1	
Gambia	5		2	7	
Ghana	11		6	17	
Germany	2			2	
Greece	3			3	
India	7	1 524	19	1 550	
Iran, Islamic Republic of	3			3	
Italy		43	1	44	8
Jordan	7	945	15	967	
Kenya	11	664	12	687	
Malaysia	7		4	11	
Namibia	4		1	5	
Nepal	5			5	
Nigeria	6		4	10	
Norway	5			5	
Paraguay	3			3	
Peru	3			3	
Poland	6			6	
Romania	8			8	
Russian Federation	6			6	
Slovakia		129	2	131	
Spain	3		2	5	

<i>Country</i>	<i>Military observers</i>	<i>Troops</i>	<i>Staff</i>	<i>National support Total elements</i>
South Africa	3		5	8
Sweden	6			6
Switzerland	4			4
Tunisia	2		3	5
Ukraine	7			7
United Kingdom of Great Britain and Northern Ireland	1		2	3
United Republic of Tanzania	8		3	11
Uruguay	5	32	3	40
United States of America	7			7
Zambia	9		4	13
Total	214	3 690	112	4 016



Security Council

Distr.: General
10 March 2004

Original: English

Letter dated 4 March 2004 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 18 September 2003 (S/2003/908). The Counter-Terrorism Committee has received the attached third report from Kenya submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(Signed) **Inocencio F. Arias**
Chairman

Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism



Annex

Note verbale dated 2 March 2004 from the Permanent Mission of the Republic of Kenya to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

The Permanent Mission of the Republic of Kenya to the United Nations presents its compliments to the Chairman of the Committee and, in reference to the latter's letter dated 31 October 2003, has the honour to forward herewith Kenya's third report on measures taken to implement resolution 1373 (2001) (see enclosure).

Enclosure

**THIRD REPORT OF THE REPUBLIC OF KENYA
SUBMITTED TO THE UNITED NATIONS
COUNTER-TERRORISM COMMITTEE
(CTC)**

**THIRD REPORT OF THE REPUBLIC OF KENYA SUBMITTED TO
THE UNITED NATIONS COUNTER TERRORISM COMMITTEE
(CTC)
ESTABLISHED PURSUANT TO PARAGRAPH 6 OF SECURITY
COUNCIL RESOLUTION 1373 (2001)**

Introduction

Kenya submitted its first report and second supplementary report to Counter Terrorism Committee (CTC) in July 2002 and March 2003 respectively. Arising out of the second report, CTC posed further question and elicited further comments from the Government of Kenya with regard to the implementation of Resolution 1373(2001). Set out below are the responses from the Government of Kenya to the issues requested by CTC:

Are the measures taken by Kenya to combat terrorism compliant with all its obligations under international law (Has it adopted measures to combat terrorism in accordance with international human rights, refugee, and humanitarian law?

All legislative and administrative measures taken must not be contrary or *ultra vires* to the provisions of the Constitution of Kenya, which at Chapter V provides for the protection of fundamental rights and freedoms of the individual. These rights and freedoms include right to life, personal liberty, protection from slavery and forced labour, protection from inhuman treatment, protection from deprivation of property, protection from arbitrary search or entry, freedom of conscience, expression, assembly and association, freedom of movement, protection from discrimination on the grounds of race, political opinion, religion, colour, creed or sex.

The Constitution of Kenya embodies the principles contained in various international human rights covenants, which Kenya is also a party to. So far there has been no Constitutional challenges against any measures taken.

1.2 Is there any law, which criminalizes the willful provision or collection, by any means, directly or indirectly, of funds by Kenyans or in the territory with the intention that the funds should be used or in the knowledge that they are to be used, in order to carry out terrorist acts? Give an outline of provisions.

There is no law, which directly criminalizes the willful provision, or collection of funds to carry out terrorist acts. However such an offence is punishable under the offences related to conspiracy to commit a felony under the various provisions of the Penal Code Chapter 63 of the Laws of Kenya.

Section 220 of the Penal Code provides that any person who attempts or with intent to unlawfully cause the death of another does any act, or omits to do any act which it is his duty to do, such act or omission being of such a nature as to be likely to endanger human life, is guilty of a felony and is liable to imprisonment for life.

Section 224 of the Penal Code also provides that any person who conspires with any other person to kill any person, whether that person is in Kenya or elsewhere, is guilty of a felony and is liable to imprisonment for fourteen years. Under section 234 in addition to corporal punishment the same punishment is provided for any person who unlawfully causes grievous harm.

Section 235 of the Penal Code further provides that any person who unlawfully, and with intent to do any harm to another, puts any explosive substance in any place whatever, is guilty of a felony and is liable to imprisonment for fourteen years.

The substantive provision criminalizing the willful provision or collection of funds by Kenyans or in the territory with the intention to be used carry out terrorist acts is provided in Section 14 of the Suppression of Terrorism Bill, 2003 as follows:-

Any person who-

- (a) invites another to provide or make available money or other property; and

- (b) intends that it should be used, or has reasonable cause to suspect that it may be used, for the purposes of terrorism,
 - (c) receives money or other property and intends that it should be used, or has reasonable cause to suspect that it may be used, for the purposes of terrorism,
 - (d) provides or makes available money or other property and knows or has reasonable cause to suspect that it will or may be used for the purposes of terrorism,
- shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding ten years or to a fine, or both.

What executive machinery is in place for preventing and suppressing the financing of terrorist acts?

Currently there is an Anti Terrorist Police Unit located in the Office of the President overseeing the prevention and suppressing the financing of terrorist acts. The Unit composed of intelligence personnel dealing with various aspects of financial forensics required to trace proceeds channeled for terrorist activities. This Unit is a stopgap measure awaiting the enactment of the Anti-Money Laundering Bill, which shall transform the Unit into the equivalent of Financial Intelligence Unit.

The Kenya Bankers Association has come up with policy guidelines of "know your customer (KYC)" and "know your transactions (KYT)" requiring all member banks to report any suspicious financial transactions awaiting the enactment of the anti money laundering bill.

The Central Bank of Kenya has also re-organized its capacity to closely monitor and supervise the operations of commercial banks and forex bureaus.

What progresses have been made towards enactment of the Suppression of Terrorism Bill and Anti Money Laundering Bill?

The Suppression of Terrorism Bill has been published and matured for debate in the National Assembly. The publication of the Bill elicited various comments from different stakeholders. But due to the tight calendar of the National Assembly and the need to build

consensus among various stakeholders the Bill may lapse and will need to be published again before submission for debate in the National Assembly.

The Anti Money Laundering Bill is at the drafting stage.

1.3 Does the obligation to report suspicious financial transactions extend to other intermediaries e.g. lawyers, accountants and notaries when engaged in brokering activities?

The duty to report not only suspicious financial transaction but preparation to commit crime generally lies with every person in Kenya.

Under Section 393 of the Penal Code every person who, knowing that a person designs to commit or is committing a felony, fails to use all reasonable means to prevent the commission or completion thereof is guilty of a misdemeanor. Section 393 of the Penal Code provides that a person who receives or assist another who is, to his knowledge, guilty of an offence and liable to imprisonment of 3 years being accessory after the fact.

Professional Ethics governing the practice of various professions in Kenya require that members of that profession to report to the competent authorities where they suspect that any illegal act are about to be committed.

The substantive duty to report suspicious financial transactions by other intermediaries engaged in brokering activities will be covered under the Anti Money Laundering Bill.

1.4 Is there any law in Kenya which provides for the freezing of funds regardless of their origin which are:

- Held in the names of persons and entities identified in lists, such as those approved for the purposes of

Security Council Resolution 1267 (1999), as being linked to terrorist activities;

- **Suspected of being linked to terrorism, but which have not yet been used for the commission of a terrorist act.**

Under Section 36 of the Narcotic Drugs and Psychotropic Substances (Control) Act, No. 4 of 1994 any person who commits a specified offence under the Act, all the property owned by such a person on the date of the commission of that offence or acquired by him after that date shall be forfeited to the Government.

Under the Act the regulations have been made to freeze the accounts suspected to contain proceeds of drug trafficking or related offences awaiting the determination by the courts.

Outline Section 180 of the Evidence Act and the relevant provisions of the Criminal Procedure Code as well as information on whether Kenya can freeze assets suspected of being linked to terrorism at the request of another State.

Section 180 of the Evidence Act Chapter 80 of the Laws of Kenya provides that where it is proved on oath to a judge or magistrate that in fact, or according to reasonable suspicion, the inspection of any banker's book is necessary or desirable for the purpose of any investigation into commission of an offence, the judge or magistrate may by warrant authorize a police officer or other person named therein to investigate the account of any specified person in any banker's book, and such warrant shall be sufficient authority for the production of any such banker's book as may be required for scrutiny by the officer or person named in the warrant, and such officer or person may take copies of any relevant entry or matter in such banker's book.

Any person who fails to produce any such banker's book to the police officer or any other person executing the warrant shall be guilty of an offence and liable to imprisonment for a term not exceeding one year or to a fine or both.

Under Section 47 of the Narcotic Drugs and Psychotropic Substances (Control) Act the Government of Kenya may enter into an

arrangement on a reciprocal basis with the Government of another country in respect of the recovery, and handing over of possession to the Government of that country of any property in Kenya which is confiscated by or forfeited to the Government of that country in consequence of the commission by any person of an offence against a corresponding law of that country or for tracing and preserving any property in Kenya owned by or under the control of any person who has or is suspected to have committed an offence against such corresponding law.

Does the Suppression of Terrorism Bill (STB) have provisions for the blocking of assets of terrorists and terrorist organizations and the seizing of such funds? If so give an outline of the provision.

Under Section 19 of the STB where the Attorney General has reasonable grounds to suspect that a person has committed, is committing or is about to commit an act of terrorism or is in possession of terrorist property, he may, for the purposes of the investigation of an offence apply to the High Court for an order:

- compelling the person to deliver up any document or record relevant to identifying, locating or quantifying any property and
- requiring a bank or any other financial institution, trustee, cash dealer or custodian to produce all information and deliver up all documents and records regarding any business transaction conducted by or on behalf of the person concerned.

Section 21 of the STB proposes that an authorized officer who has reasonable grounds to suspect that any cash which is being imported into or exported from Kenya, or is being brought to any place in Kenya for the purpose of being exported to any place in Kenya, is terrorist property, may seize the cash.

The authorized officer may seize all the cash under this section even if he reasonably suspects that a part only of the cash to be terrorist property especially where it is not reasonably practicable to seize that part of the cash that is suspected to be terrorist property. These powers can be exercised whether or not any court proceedings have been brought for an offence in connection with the cash concerned.

Section 22 of the STB proposes that the court by or before which a person is convicted of an offence under the Suppression of Terrorism Act may make a forfeiture order with regard to what the court considers was in the person's possession for purposes connected with the offence including any money or property.

There is no law to freeze funds suspected to emanate from a criminal activity safe for narcotic drugs and psychotropic substances (control) act. Section 180 of the evidence act only gives powers to obtain warrants to investigate accounts. It does not address the issue of what action to take should the investigations into suspect accounts realize fraudulent deposits. Note also that section 22 of the STB proposes for the forfeiture of fraudulent funds "upon conviction". It is silent on the freezing the funds during investigations and hearing.

1.5 Has Kenya put in place a mechanism to register, audit and monitor the collection and use of funds and other resources by religious, charitable and other associations, with a view to ensuring that these are not diverted to purposes other than their stated purposes, in particular to the financing of terrorism? If not are there any steps intended to be taken?

The religious, charitable and other associations are registered under three regimes of law i.e. Non Governmental Organizations Coordinating Act (1990), Societies Act Chapter 108 and Companies Act Chapter 486 of the laws of Kenya.

Before registration of NGOs or Political party or any other society under the Non Governmental Organization Coordinating Act and the Societies Act, the applications for registration is forwarded to the National Security Intelligence Services (NSIS) for vetting to ascertain their objectives or linkages with any banned outfit and track records of its proposed officials. It is only after being given the go head by the NSIS will the Attorney General's Office register such an organization.

Under the Non Governmental Organizations Coordinating Act, there is a legal requirement for standard reporting and auditing of the Non Governmental Organization (NGOs). The reports are to be submitted to the NGO Council at the end of every financial year. Through this mechanism the collection and use of funds and other resources of

these organizations are monitored. The NGO code of conduct also provides the internal governance of the NGOs.

Under the Societies Act and Companies Act, organizations are required to file annual returns with the Registrar indicating the sources and use of funds.

Any organization that flouts the laws outlined above or from its stated objectives or is found to have links with any proscribed organization can be deregistered.

1.6 Is there any law in force, which regulates alternative money transfer agencies or services? If not, any steps contemplated?

The Micro Financing Institution Bill and the Anti Money Laundering Bill all of which are in the drafting stages are envisaged to regulate these informal financial institutions.

1.7 Does the Suppression of Terrorism Bill (STB) criminalize the recruitment of persons on Kenyan territory who seek to join terrorist groups, which operate inside its territory or abroad?

Yes, the STB criminalizes the recruitment of persons on Kenyan territory who seek to join terrorist groups.

Section 8 of the STB provides that a person shall be guilty of an offence if he incites another person to commit an act of terrorism wholly or partly outside Kenya if the act committed constitute an offence under the STB or any other law. It is immaterial whether or not the person incited is in Kenya at the time of the incitement.

Under Section 11 of the STB a person who invites support, arranges or manages or assist in arranging or managing a meeting to further the activities of a declared terrorist organization is guilty of an offence. A person who addresses such a meeting shall also be guilty of an offence if the purpose of such address is to encourage support for a declared terrorist organization or to further its activities.

Similarly under Section 4 of STB a person who provides or invites another to receive instruction or training in making or use of firearms or explosives and other weapons of mass destruction shall be committing an offence.

The aggregate of these provisions criminalize the recruitment of persons in Kenyan territory who seek to join terrorist groups.

Does the STB have a provision explicitly eliminating a "political motivation" exception to extradition for terrorist acts? State Provision.

Section 37 implies that extradition of an offender under the STB cannot be politically motivated. This Section provides that notwithstanding anything in the Extradition Acts, an offence, which caused or was intended or likely to cause death or serious bodily harm to any person, or serious damage to any property, shall for the purpose of extradition be deemed not to be an offence of a political character.

1.8 What mechanism enables Kenya's investigative and Security agencies to share terrorist related information with other international security agencies?

- **List the names of countries to which Kenya provides early warning of anticipated terrorist activities through exchange of information.**

The sharing of terrorism related information with other international security agencies by Kenya is done administratively through bilateral and multilateral arrangements and also through Interpol and regional cooperation arrangements.

However under Section 33 of the STB it is proposed that the Commissioner of Police may, at the request of a competent authority of a foreign State, disclose to that authority any information in his possession relating to any person suspected of involvement in acts of terrorism.

Some of the Countries Kenya provides early warning of anticipated terrorist activities through exchange of information include France, Germany, Britain, USA, Israel, Uganda and Tanzania.

1.9 Do Kenya courts have the competence to deal with criminal acts of the following kind:

- **An act committed within Kenya by any person (whether that person is currently present in Kenya or not)**
- **An act committed outside Kenya by a person who is a citizen of or habitually resident in Kenya (whether that person is currently present in Kenya or not);**
- **An act committed outside Kenya by a foreign national who is currently in Kenya.**
- **What is the maximum sentence, which Kenya courts may impose for terrorist activities?**

The judiciary in Kenya is structured as follows;

- Magistrate's court (1 & 2),
- High Court and
- Court of Appeal at the apex of the judiciary.

Section 60 of the Constitution of Kenya provides that the High Court shall be the superior court of record, and shall have unlimited original jurisdiction in civil and criminal matters and such other jurisdiction and powers as may be conferred on it by the Constitution or any other law.

Section 66 of the Criminal Procedure Code Chapter 75 of the Laws of Kenya provides that every court in Kenya has authority to cause to be brought before it any person who is within the local limits of its jurisdiction and is charged with an offence committed within Kenya, or which according to the law may be dealt with as if it had been committed within Kenya, and to deal with the accused person according to its jurisdiction.

Further Section 72 of the Criminal Procedure Code provides that the offence can be tried by the courts in whose jurisdiction the offence was committed or any consequences of the crime ensued.

Under the Criminal Procedure Code it is provided at Section 12 that any court may pass a lawful sentence combining any of the sentences, which it is authorized by law to pass. Kenya courts

depending on their authorized jurisdictions by law are competent to deal with all criminal acts committed in Kenya or abroad by a Kenyan citizen who is within the jurisdiction of Kenya.

Under Section 6 of the Penal Code Chapter 63 of the laws of Kenya, when an act which, if wholly done within Kenya, would be an offence, is done partly within and partly beyond the territory of Kenya, every person who within Kenya does or makes any part of such an act may be tried and punished in the same manner as if such act had been done wholly within the jurisdiction of Kenya.

Under the offence of conspiracy to commit a felony, Section 393 of the Penal Code provides that any person who conspires with another to commit any felony, or to do any act in any part of the world which if done in Kenya would be a felony, and which is an offence under the laws in force in the place where it is proposed to be done, is liable if no other punishment is provided, to imprisonment for **seven years**.

The Penal Code of Kenya does not define terrorist activity. However any act that causes danger to life or property are prosecuted through various provisions of the Penal Code Chapter 63 as out lined above and Protection of Aircraft Chapter 68 of the Laws of Kenya.

Section 220 of the Penal Code provides that any person who attempts or with intent to unlawfully cause the death of another does any act, or omits to do any act which it is his duty to do, such act or omission being of such a nature as to be likely to endanger human life, is guilty of a felony and is liable to **imprisonment for life**.

Section 224 of the Penal Code also provides that any person who conspires with any other person to kill any person, whether that person is in Kenya or elsewhere, is guilty of a felony and is liable to imprisonment for **fourteen years**. Under section 234 in addition to corporal punishment the same punishment is provided for any person who unlawfully causes grievous harm.

Section 235 of the Penal Code further provides that any person who unlawfully, and with intent to do any harm to another, puts any explosive substance in any place whatever, is guilty of a felony and is liable to imprisonment for **fourteen years**.

Section 393 of the Penal Code provides that any person who conspires with another to commit any felony, or to do any act in any part of the world which if done in Kenya would be a felony, and which is an offence under the laws in force in the place where it is proposed to be done, is liable if no other punishment is provided, to imprisonment for **seven years**.

Under Section 3 of the Protection of Aircraft Act any person who, on board an aircraft in flight, whether in Kenya or elsewhere, unlawfully, by force or threat thereof, or by any other form of intimidation, seizes or exercises control of that aircraft shall be guilty of the offence of hijacking and liable to **imprisonment for life**.

1.10 What countries does Kenya have mutual legal assistance agreements with other than the USA?

The Extradition (Commonwealth Countries) Act Chapter 77 of the Laws of Kenya is an Act of Parliament making provision for surrender by Kenya to other Commonwealth countries on reciprocal basis persons accused or convicted of offences in those countries. Some of these Commonwealth Countries include Lesotho, Singapore, Malawi and Papua New Guinea.

In addition, the Extradition (Contiguous and Foreign Countries) Act Chapter 76 of the Laws of Kenya consolidate the law relating to the extradition of criminals and for matters relating therewith where Kenya has an agreement with another country. Some of the countries that have mutual assistance agreements with Kenya include Uganda, Tanzania, Rwanda, United Kingdom, Canada, and Mauritius.

1.11 Does Kenya have in train measures to strengthen border controls? If so, provide ways in which Kenya is working to strengthen them.

Kenya has embarked on computerization of immigration department and all points of entry and border posts. The security around the International airports has been strengthened to ensure safety of aircrafts.

With the support of its allies, Kenya has intensified surveillance along its coastal areas that borders the areas likely to be used by terrorist bent on entering the country. Despite budgetary constraints, Kenya continues to upgrade and modernize the necessary equipments used by the security forces guarding various points of entry on land and sea.

The security forces are constantly being trained to confront the emerging threats caused by terrorist.

1.12 Kenya indicated that it has ratified all 12 international instruments relating to terrorism. Is there any law or some sort of arrangement in place with a view to implementing the provisions of these 12 instruments in Kenya domestic law?

Kenya has put in place arrangement to domesticate the provisions of these 12 instruments.

The Suppression of Terrorism Bill (STB) was published on 30th April 2003 and matured for debate in the National Assembly.

The Anti Money Laundering Bill is at the drafting stage.

Even before the enactment of these intended new legislation, Kenya is capable of prosecuting the crimes envisaged in these instrument within the provisions of the Penal Code and other legislations as outlined above.

1.13 How would Kenya deal with a refugee who has committed a terrorist act but claims political motivation for such an act?

Once a refugee commits an act that endangers life or property, such an individual automatically loses his refugee status and shall be prosecuted in accordance with the relevant laws for such an offender. The defence of political motivation will not suffice. However in such event proper channels are followed in conjunction with the United Nations High Commission for Refugee officials with a view of lifting the refugee status to enable prosecution of the offender.

1.14 Does Kenya have any reports or questionnaires on implementation of international best practices, codes and standards which are relevant to the implementation of Resolution 1373? If so, provide copies thereof.

Kenya would like to benefit from any documented best practices, codes or standards, which are relevant to the implementation of resolution 1373 and for, combat terrorism in general. To this end Kenya looks to the international community to provide some of the best practices recorded within their jurisdictions and that may be replicated elsewhere.

Indicate any areas in which Kenya would require assistance or advice in order to implement the Resolution 1373, which requires States to have in place provisions specifically criminalizing the wilful provision, and collection of funds within its territory with the intention of funding terrorist acts.

As Kenya puts in place various measures to meet the dangers posed by terrorism, the country will need considerable technical assistance in the areas of capacity building and equipment in order to effectively comply with the resolution 1373.

Kenya can also benefit from any documented best practices that have proved successful in combating threats posed by terrorism in other jurisdictions.

To this end Kenya looks forward to the international community and its development partners to enhance its capabilities to combat the threats posed by terrorism.

**Security Council**

Distr.: General
10 March 2004

Original: English

**Letter dated 26 February 2004 from the Secretary-General
addressed to the President of the Security Council**

Members of the Security Council will recall that, by resolution 1315 (2000) of 14 August 2000, the Council requested me to negotiate an agreement with the Government of Sierra Leone to create an independent special court to prosecute persons who bear the greatest responsibility for the commission of crimes against humanity, war crimes and other serious violations of international humanitarian law, as well as crimes under relevant Sierra Leonean law committed within the territory of Sierra Leone.

While my preference was that the Court be funded from assessed contributions the Security Council decided that the expenses of the Special Court should be borne by way of voluntary contributions from the international community. The Security Council however agreed with my proposal that only after the United Nations had received sufficient funds for the first year of the Court's operation and had also received substantial pledges for the second and third years, would I request the Legal Counsel, on behalf of the United Nations, to finalize an agreement on the establishment of the Special Court with the Government of Sierra Leone (see S/2001/693).

Subsequently, after I had made various appeals to States, sufficient funds were received and substantial amounts pledged for this purpose and, on 16 January 2002 the Legal Counsel and the Attorney-General of Sierra Leone signed the Agreement between the United Nations and the Government of Sierra Leone on the Establishment of a Special Court for Sierra Leone (S/2002/246, appendix II).

Since January 2002 tremendous progress has been made in setting up the Court in Freetown. The Registrar has put in place the necessary infrastructure and support services to ensure the effective functioning of the Court; the Prosecutor has been conducting extensive investigations both inside and outside Sierra Leone and is ready to go to trial in March 2004. The Trial Chamber recently ruled that the nine persons indicted by the Court and currently in its custody should be tried jointly in three groups. It is estimated that the three trials will take approximately one year, that is, until March 2005. Allowing for appeals after the trial judges have rendered their decisions, the trials should, it is hoped, be completed by December 2005.

However, despite efforts by myself as well as demarches and other efforts at the highest level by representatives of Member States, financing through voluntary contributions will only carry the Court to the end of the second year of its operations



(i.e., until 30 June 2004) by which time the Court will have consumed most of the moneys thus far available to it.

Immediate steps therefore need to be taken to make up for the shortfall for the third year so that trials can go ahead. Voluntary contributions for the third year are, at this stage, estimated to be no more than US\$ 8 million which means that, against a provisionally estimated budget of \$28-30 million the estimated shortfall will probably be in the region of \$20-22 million.

While the Security Council has always proceeded from the premise that the costs of the Special Court should be borne by Member States in the form of voluntary contributions, I have always expressed a preference for financing through assessed contributions as the only viable and sustainable financial mechanism to afford secure and continuous funding. Accordingly, in the letters that I sent to the President of the Council when I authorized the commencement of the Court, I reserved the right to revert to the Council at any time in the course of the Court's operation.

Now that the Special Court is established, it is essential that the Special Court be allowed to complete its work so that it can bring to justice those who bear the greatest responsibility for the very serious crimes committed in Sierra Leone. The work of the Court is integral to the process of national reconciliation and to the restoration and maintenance of peace and security in that country.

I therefore wish to propose to members of the Council that one way of addressing the shortfall would be for all or part of the third year costs of the Court to be provided by assessment while preserving the independent nature of the Court.

The Security Council may wish to invite me to bring the matter to the attention of the General Assembly with a view to seeking the appropriation of funds for the Court, while preserving the independence of the Court.

I should be grateful if you would bring the present letter to the attention of the members of the Security Council.

(Signed) Kofi A. Annan

**Security Council**

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10 March 2004
English
Original: French

Letter dated 10 March 2004 from the President of the Security Council addressed to the Secretary-General

The members of the Security Council thank you for your letter dated 26 February 2004 in which you draw their attention to the difficulties faced by the Special Court for Sierra Leone with regard to its third-year budget. They have also taken note of your proposal that the Council invite you to bring the matter to the attention of the General Assembly with a view to seeking the appropriation of funds to the Court, while preserving the independence of the Court.

Having consulted the Council members, I am pleased to inform you that they have no objection to your proposal with regard to supplementing voluntary contributions that have been pledged but are as yet unpaid, as well as those that have been received.

It is, of course, the understanding of Council members that any action you may take with the General Assembly on this issue will in no way affect the independence and structure of the Special Court for Sierra Leone as established by the Agreement between the United Nations and the Government of Sierra Leone signed on 16 January 2002.

(Signed) Jean-Marc de la Sablière
President of the Security Council





Security Council

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10 March 2004

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Letter dated 10 March 2004 from the Permanent Representative of Armenia to the United Nations addressed to the Secretary-General

In response to the letter dated 26 February 2004 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General and its annex, circulated as a document of the Security Council (S/2004/165), I have the honour to transmit herewith a memorandum entitled "The truth about the events in Khojaly: evidence from Azerbaijani sources" (see annex).

I should be grateful if you would have the text of the present letter and its annex circulated as a document of the Security Council.

(Signed) Armen Martirosyan
Ambassador
Permanent Representative



Annex to the letter dated 10 March 2004 from the Permanent Representative of Armenia to the United Nations addressed to the Secretary-General

The truth about the events in Khojaly

Evidence from Azerbaijani sources

For already 12 years after the events in Khojaly, official Baku has been obstinately fanning anti-Armenian hysteria with the aim of falsifying the factual history and trying to put the blame for those tragic events on Armenians.

The events in Khojaly, which led to the deaths of civilians, were the result solely of political intrigues and power struggle in Azerbaijan.

The real reasons are most convincingly reflected in the accounts of Azerbaijanis themselves — as participants in and eyewitnesses of what happened — as well as of those who know the whole inside story of the events in Baku.

Khojaly, along with Shushi and Agdam, was one of the main strongholds from which Stepanakert, the capital of the Nagorno Karabagh Republic, was shelled continuously and mercilessly for the three winter months of 1991/92 with artillery, missiles and launchers used for targeting cities.

Knocking out the weapon emplacements in Khojaly and thus freeing the airport were the only way for the Nagorno Karabagh Republic to ensure the physical survival of its population condemned by Azerbaijan to complete annihilation. The daily shelling of Stepanakert from nearby Khojaly took the lives of hundreds of peaceful inhabitants — women, children and old people.

The then President of Azerbaijan, Ayaz Mutalibov, has stated that "the assault on Khojaly was not a surprise attack".¹ In an interview in 1992 with the Russian newspaper *Nezavisimaya Gazeta* he emphasized that "a corridor was kept open by the Armenians for people to leave".² However, a column of civilians was fired on by armed units of the Popular Front of Azerbaijan on the approaches to the Agdam district border, a fact later confirmed by Ayaz Mutalibov, who linked this criminal act to attempts by the opposition to remove him from power, and blamed it entirely for what happened. In his interview with the Russian magazine, *Novoye Vremya*, Mutalibov stated that "the shooting of the Khojaly residents was obviously organized by someone to take control in Azerbaijan".³

According to Azerbaijani journalist M. Safarogly, "Khojaly occupied an important strategic position. The loss of Khojaly was a political fiasco for Mutalibov".⁴

Furthermore, there is a statement by an Azerbaijani journalist, Arif Yunusov, which clearly states: "The town and its inhabitants were deliberately sacrificed for a political purpose — to prevent the Popular Front of Azerbaijan from coming to power".⁵ In this case, though, the Azerbaijanis themselves are named as the perpetrators of the tragedy.

Similar comments and views concerning the events in Khojaly are known to have been made by several other highly placed Azerbaijani officials and journalists.

Tamerlan Karayev, at one time Chairman of the Supreme Council of the Republic of Azerbaijan, bears witness: "The tragedy was committed by the authorities of Azerbaijan", and specifically by "someone highly placed".⁶

The Czech journalist Jana Mazalova, who by an oversight of the Azerbaijanis was included in both of the groups of press representatives to be shown the bodies mutilated by "the Armenians", noted a substantial difference in the two cases. When she went to the scene immediately after the events, Mazalova did not see any traces of barbarous treatment of the bodies. Yet a couple of days later the journalists were shown disfigured bodies already "prepared" for taping.

Who killed the peaceful inhabitants of Khojaly and then mutilated their bodies, if the tragedy occurred not in a village taken by Armenians or on the route of the humanitarian corridor, but on the approaches to the town of Agdam — on territory fully controlled by the Azerbaijanis?

The independent Azerbaijani cameraman Chingiz Mustafaev, who took pictures on 28 February and 2 March 1992, had doubts about the official Azerbaijani version and began his own inquiry. The journalist's very first report to the Moscow news agency D-Press on the possible complicity of the Azerbaijani side in the crimes cost Mustafaev his life: he was killed not far from Agdam under circumstances that are still unexplained.

The former President of Azerbaijan, Heydar Aliyev, himself recognized that Azerbaijan's "former leadership were also guilty" of the events in Khojaly. Already in April 1992, according to the agency Bilik-Dunyasy, he had commented as follows: "The bloodshed will be to our advantage. We should not interfere in the course of events". To whose "advantage" was the bloodletting is clear to everyone. *Megapolis Express* wrote: "It cannot be denied that, if the Popular Front of Azerbaijan actually set far-reaching objectives, they have been achieved. Motalibov has been compromised and overthrown, public opinion worldwide has been shaken, and the Azerbaijanis and their Turkish brethren have believed in the so-called genocide of the Azerbaijani people in Khojaly".⁷

One other tragic detail. It has become clear since the events that 47 Armenians were already being held hostage on 26 February in "peaceful" Khojaly, a fact that the Azerbaijani mass media "covering" the tragedy has failed to mention. After the liberation of Khojaly only 13 hostages (including 6 women and 1 child) were found there, the other 34 were taken away by the Azerbaijanis to an unknown location. The only thing known about them is that they were led from the village on the night of the operation, but never reached Agdam. There is still no information concerning what eventually happened to them or confirming that they continued to be held captive by the Azerbaijanis.

In the light of the above facts it may confidently be said that the killing of peaceful inhabitants of the village of Khojaly was the work of the Azerbaijani side, which committed this crime against its own people in the name of political intrigues and the struggle for power.

Notes

¹ *Ogonyok* (magazine), Nos. 14-15, 1992.

² *Nezavisimaya Gazeta*, 2 April 1992.

³ *Novoye Vremya*, 6 March 2001.

⁴ *Nezavisimaya Gazeta*, February 1993.

⁵ *Zerkalo* (newspaper), July 1992.

⁶ *Mikhailifat* (newspaper), 28 April 1992.

⁷ *Megapolis Express*, No. 17, 1992.

**Security Council**

Distr.: General
11 March 2004
English
Original: Spanish

**Letter dated 9 March 2004 from the Permanent Representative of
Cuba to the United Nations addressed to the Secretary-General**

I have the honour to refer to document S/2004/20 of 14 February 2004, which contains the summary statement by the Secretary-General on matters of which the Security Council is seized and on the stage reached in their consideration.

Pursuant to the procedure set out in the note by the President of the Security Council of 29 August 1996 (S/1996/704), I have the honour to inform you that the Government of Cuba is interested in having retained on the list of matters of which the Security Council is seized the following items submitted by Cuba to the Council, as indicated in paragraph 8 of document S/2004/20:

5. Letter dated 11 July 1960 from the Minister for Foreign Affairs of Cuba addressed to the President of the Security Council (S/4378).
6. Letter dated 31 December 1960 from the Minister for External Affairs of Cuba addressed to the President of the Security Council (S/4605).
10. Complaint by Cuba (S/10993).
31. Letter dated 2 February 1990 from the Permanent Representative of Cuba to the United Nations addressed to the President of the Security Council (S/21120).

I should be grateful if you would have this letter circulated as a Security Council document.

(Signed) Orlando **Requeijo Gual**
Ambassador
Permanent Representative



**Security Council**

Distr.: General
11 March 2004
English
Original: English and Spanish

Draft resolution

The Security Council,

Reaffirming the purposes and principles of the Charter of the United Nations and its relevant resolutions, in particular its resolution 1373 (2001) of 28 September 2001,

Reaffirming the need to combat by all means, in accordance with the Charter of the United Nations, threats to international peace and security caused by terrorist acts,

1. *Condemns* in the strongest terms the bomb attacks in Madrid, Spain, perpetrated by the terrorist group ETA on 11 March 2004, in which many lives were claimed and people injured, and regards such act, like any act of terrorism, as a threat to peace and security;
 2. *Expresses* its deepest sympathy and condolences to the people and Government of Spain and to the victims of the terrorist attacks and their families;
 3. *Urges* all States, in accordance with their obligations under resolution 1373 (2001), to cooperate actively in efforts to find and bring to justice the perpetrators, organizers and sponsors of this terrorist attack;
 4. *Expresses* its reinforced determination to combat all forms of terrorism, in accordance with its responsibilities under the Charter of the United Nations.
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**General Assembly
Security Council**Distr.: General
11 March 2004

Original: English

General Assembly
Tenth emergency special session
Agenda item 5
Illegal Israeli actions in Occupied East
Jerusalem and the rest of the Occupied
Palestinian Territory**Security Council**
Fifty-ninth year**Identical letters dated 10 March 2004 from the Permanent
Observer of Palestine to the United Nations addressed to the
Secretary-General and the President of the Security Council**

Israel, the occupying Power, continues to perpetrate war crimes, State terrorism and systematic human rights violations against the Palestinian people as the occupying forces continue to launch assaults and raids against civilian areas throughout the Occupied Palestinian Territory, including East Jerusalem. With the continuation of this Israeli military campaign, the casualties and destruction being endured by the Palestinian people continue to mount dramatically. In this regard, it is my regret to inform you that, since my letter to you just two days ago, the Israeli occupying forces have killed at least seven more Palestinians.

Today, Israeli undercover units raided the city of Jenin and killed five Palestinians, including a 14-year-old boy, who were travelling by car. The car was riddled with bullets and the Israeli undercover units immediately left the area after the attack. These extrajudicial executions of Palestinians compound the war crime committed by the occupying forces in the Occupied Gaza Strip on Sunday, 7 March 2004, in which 14 Palestinians, including children, were killed. Also today, Israeli occupying forces killed a 16-year-old boy in Al-Khalil in addition to another Palestinian who was shot and killed yesterday in Jenin.

Such ongoing Israeli policies and practices, including the continued perpetration of deliberate killings against Palestinian civilians and the continued human rights violations against the Palestinian people in connection with its ongoing construction of the Wall in the Occupied Palestinian Territory, including in and around East Jerusalem, constitute serious violations and grave breaches of international law, including the Fourth Geneva Convention. The international community must continue to act to bring an end to all Israeli actions against the Palestinian people and ensure Israel's compliance with international law and with its obligations as an occupying Power.



This letter is in follow-up to our previous 183 letters to you regarding the ongoing crisis in the Occupied Palestinian Territory, including East Jerusalem, since 28 September 2000. These letters, dated from 29 September 2000 (A/55/432-S/2000/921) to 8 March 2004 (A/ES-10/259-S/2004/178), constitute a basic record of the crimes committed by the Israeli occupying forces against the Palestinian people since September 2000. For all of these war crimes, State terrorism and systematic human rights violations committed against the Palestinian people, Israel, the occupying Power, must be held accountable and the perpetrators must be brought to justice.

Accordingly, in follow-up to the above-mentioned letters, it is my profound regret to inform you that, since my last letter to you, at least seven Palestinians, have been killed by the Israeli occupying forces, in addition to two Palestinians who died from sustained wounds, raising the total number of martyrs killed since September 2003 to 2,821 Palestinians. (The names of the martyrs that have been identified are contained in the annex to the present letter.)

I should be grateful if you would arrange to have the text of the present letter and its annex distributed as a document of the tenth emergency special session of the General Assembly, under agenda item 5, and of the Security Council.

(Signed) Nasser **Al-Kidwa**

Ambassador

Permanent Observer of Palestine to the United Nations

**Annex to the identical letters dated 10 March 2004 from the
Permanent Observer of Palestine to the United Nations addressed
to the Secretary-General and the President of the Security Council**

**Names of martyrs killed by the Israeli occupying forces in the
Occupied Palestinian Territory, including East Jerusalem*
(Monday, 8 March 2004 to Wednesday, 10 March 2004)**

Monday, 8 March 2004

Khaled Taha Abdel Hafez Mady (from wounds sustained on 3 March 2004)

Tuesday, 9 March 2004

1. I'atemad Mahmoud Kalab (from wounds sustained on 4 March 2004)
2. Dalal Mujahed Mohamed Abu Al-Hasan

Wednesday, 10 March 2004

1. Ihab Ahmed Abu Ja'afar
2. Mohamed Ahmed Abdallah Khairallah
3. Ayman Mahmoud Saba'neh
4. Amer Mohamed Saleh Qesrawi
5. Basel Khaled Mahdi Abu Amr (14 years old)
6. Tha'er Mohamed Halayqeh (16 years old)

* The total number of Palestinian martyrs killed by Israeli occupying forces since 28 September 2000 is 2,821.

**Security Council**

Distr.: General
11 March 2004

Original: English

Draft resolution

The Security Council,

Reaffirming all its previous resolutions and statements pertaining to the situation between Ethiopia and Eritrea, and the requirements contained therein, including in particular resolution 1507 (2003) of 12 September 2003,

Reiterating its support for the peace process and its unwavering commitment, including through the role played by the United Nations Mission in Ethiopia and Eritrea (UNMEE), to the full and expeditious implementation of the Comprehensive Peace Agreement signed by the Governments of Ethiopia and Eritrea (hereinafter referred to as "the parties") on 12 December 2000 and the preceding Agreement on the Cessation of Hostilities of 18 June 2000 (S/2000/1183 and S/2000/601, respectively, hereinafter referred to as the "Algiers Agreements"), and the delimitation decision by the Boundary Commission of 13 April 2002 (S/2002/423), embraced by the parties as final and binding in accordance with the Algiers Agreements,

Noting with concern the continuing impasse in the peace process, mainly due to the lack of progress in the demarcation of the border,

Taking note with concern of the Twelfth report on the work of the Eritrea-Ethiopia Boundary Commission of 27 February 2004, in particular its conclusion that under the present circumstances the Commission is unable to progress with demarcation activities,

Expressing its concern about Ethiopia's rejection of significant parts of the Boundary Commission's decision, and its current lack of cooperation with the Boundary Commission,

Expressing disappointment also about Eritrea's refusal at present to engage with the Secretary-General's Special Envoy for Ethiopia and Eritrea,

Emphasizing that cooperation with the Special Envoy offers both parties a concrete opportunity to move the peace process forward,

Recognizing the increasing demand for United Nations peacekeeping and resources from the international community for peacekeeping and peace-building purposes, and *recalling* the additional operational costs due to the delays in the demarcation process,



Expressing its support for the Special Representative of the Secretary-General and for UNMEE.

Having considered the report of the Secretary-General (S/2004/180), and *fully supporting* the observations made therein,

1. *Decides* to extend the mandate of UNMEE at the troop and military observer levels authorized by its resolution 1320 (2000) of 15 September 2000, until 15 September 2004;

2. *Strongly urges* the parties once again to cooperate fully and expeditiously with UNMEE in the implementation of its mandate, and to step up its efforts to ensure the security of all UNMEE staff, and *reiterates in the strongest terms* its demand that the parties allow UNMEE full freedom of movement and remove with immediate effect and without preconditions any and all restrictions on, and impediments to the work of, UNMEE and its staff in the discharge of their mandate;

3. *Stresses* that the primary responsibility for implementation of the Algiers Agreements and the decision of the Eritrea-Ethiopia Boundary Commission lies with both parties;

4. *Calls on* the parties to cooperate fully and promptly with the Boundary Commission, and to create the necessary conditions for demarcation to proceed expeditiously, including through the unequivocal restating of Ethiopia's acceptance of the Boundary Commission's decision, the appointment by Ethiopia of field liaison officers, and the payment of its dues to the Boundary Commission;

5. *Reaffirms* the crucial importance of a political dialogue between the two countries for the completion of the peace process and the consolidation of progress achieved so far, and *urges* both parties to normalize their relations, including through confidence-building measures, and to refrain from any threat or use of force against each other;

6. *Reiterates* its support for the initiative of the Secretary-General to exercise his good offices by appointing a Special Envoy, in order to facilitate the implementation of the Algiers Agreements, the decision of the Boundary Commission, and the relevant resolutions and decisions of the Security Council, and to encourage the normalization of diplomatic relations between the two countries, and *emphasizes* that this appointment does not constitute an alternative mechanism;

7. *Expresses* its full support for the Secretary-General's Special Envoy for Ethiopia and Eritrea, Lloyd Axworthy, *stresses* that the Special Envoy enjoys the unanimous support of the witnesses to the Algiers Agreements, namely the United Nations, the United States of America, Algeria, the African Union, and the European Union, and *urges* both parties, in particular the government of Eritrea, to engage constructively and without further delay with the Special Envoy;

8. *Urges* both parties once again to establish expeditiously a direct high-altitude flight route between Asmara and Addis Ababa to relieve the unnecessary additional cost to UNMEE and member States;

9. *Decides* to monitor closely the steps taken by the parties in the implementation of their commitments under the Algiers Agreements, including through the Boundary Commission, and to review any implications for UNMEE;

10. *Requests* the Secretary-General to monitor the situation closely and to keep under review the mission's effectiveness, and to adjust and streamline the mission's operations as needed, taking into account also the mandate of UNMEE as outlined in paragraph 2 of resolution 1320 (2000);

11. *Decides* to remain actively seized of the matter.



Security Council

Distr.: General
11 March 2004

Original: English

Draft resolution

The Security Council,

Recalling its resolution 1521 (2003) of 22 December 2003, and its other previous resolutions and statements by its President on the situation in Liberia and West Africa,

Noting with concern that the actions and policies of former Liberian President Charles Taylor and other persons, in particular their depletion of Liberian resources, and their removal from Liberia and secreting of Liberian funds and property from that country, have undermined Liberia's transition to democracy and the orderly development of its political, administrative, and economic institutions and resources,

Recognizing the negative impact on Liberia of the transfer abroad of misappropriated funds and assets and the need for the international community to ensure as soon as possible, in accordance with paragraph 6 below, the return of such funds and assets to Liberia,

Also expressing concern that former President Taylor, in collaboration with others still closely associated with him, continues to exercise control over and to have access to such misappropriated funds and property, with which he and his associates are able to engage in activities that undermine peace and stability in Liberia and the region,

Determining that this situation constitutes a threat to international peace and security in West Africa, in particular to the peace process in Liberia,

Acting under Chapter VII of the Charter of the United Nations,

1. *Decides* that, to prevent former Liberian President Charles Taylor, his immediate family members, in particular Jewell Howard Taylor and Charles Taylor, Jr., senior officials of the former Taylor regime, or other close allies or associates as designated by the Committee established by paragraph 21 of resolution 1521 (2003) (hereinafter, "the Committee") from using misappropriated funds and property to interfere in the restoration of peace and stability in Liberia and the sub-region, all States in which there are, at the date of adoption of this resolution or at any time thereafter, funds, other financial assets and economic resources owned or controlled directly or indirectly by Charles Taylor, Jewell Howard Taylor, and Charles Taylor, Jr. and/or those other individuals designated by the Committee, including funds, other financial assets and economic resources held by entities owned or controlled,



directly or indirectly, by any of them or by any persons acting on their behalf or at their direction, as designated by the Committee, shall freeze without delay all such funds, other financial assets and economic resources, and shall ensure that neither these nor any other funds, other financial assets or economic resources are made available, by their nationals or by any persons within their territory, directly or indirectly, to or for the benefit of such persons;

2. *Decides* that the provisions of paragraph 1 above do not apply to funds, other financial assets and economic resources that:

(a) have been determined by relevant State(s) to be necessary for basic expenses, including payment for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges, or exclusively for payment of reasonable professional fees and reimbursement of incurred expenses associated with the provision of legal services, or fees or service charges for routine holding or maintenance of frozen funds, other financial assets and economic resources, after notification by the relevant State(s) to the Committee of the intention to authorize, where appropriate, access to such funds, other financial assets and economic resources and in the absence of a negative decision by the Committee within two working days of such notification;

(b) have been determined by relevant State(s) to be necessary for extraordinary expenses, provided that such determination has been notified by the relevant State(s) to the Committee and has been approved by the Committee; or

(c) have been determined by relevant State(s) to be the subject of a judicial administrative, or arbitral lien or judgement, in which case the funds, other financial assets and economic resources may be used to satisfy that lien or judgement provided that the lien or judgement: was entered prior to the date of the present resolution; is not for the benefit of a person referred to in paragraph 1 above or an individual or entity identified by the Committee; and has been notified by the relevant State(s) to the Committee;

3. *Decides* that all States may allow for the addition to accounts subject to the provisions of paragraph 1 above of:

(a) interest or other earnings due on those accounts; and

(b) payments due under contracts, agreements or obligations that arose prior to the date on which those accounts became subject to the provisions of paragraph 1 above;

provided that any such interest, other earnings and payments continue to be subject to those provisions;

4. *Further decides* that the Committee shall:

(a) identify individuals and entities of the types described in paragraph 1 above, and promptly circulate to all States a list of said individuals and entities, including by posting such a list on the Committee's web site;

(b) maintain and regularly update and review every six months the list of those individuals and entities identified by the Committee as being subject to the measures set forth in paragraph 1 above;

(c) assist States, where necessary, in tracing and freezing the funds, other financial assets and economic resources of such individuals and entities;

(d) seek from all States information regarding the actions taken by them to trace and freeze such funds, other financial assets and economic resources;

5. *Decides* to review the measures imposed in paragraph 1 above at least once a year, the first review taking place by December 22, 2004 in conjunction with its review of the measures imposed in paragraphs 2, 4, 6 and 10 of resolution 1521 (2003), and to determine at that time what further action is appropriate;

6. *Expresses* its intention to consider whether and how to make available the funds, other financial assets and economic resources frozen pursuant to paragraph 1 above to the Government of Liberia, once that Government has established transparent accounting and auditing mechanisms to ensure the responsible use of government revenue to benefit directly the people of Liberia;

7. *Decides* to remain actively seized of the matter.